S. HRG. 100-410

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

H.R. 2907

AN ACT MAKING APPROPRIATIONS FOR THE TREASURY DEPARTMENT, THE UNITED STATES POSTAL SERVICE, THE EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES, FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1988, AND FOR OTHER PURPOSES

Administrative Conference of the United States
Advisory Commission on Intergovernmental Relations
Advisory Committee on Federal Pay
Committee for Purchase From the Blind and Other Severely Handicapped
Department of the Interior
Department of the Treasury
Executive Office of the President
Federal Election Commission
Federal Labor Relations Authority
General Services Administration
National Archives and Records Administration
Nondepartmental witnesses
Office of Personnel Management
U.S. Merit Systems Protection Board
U.S. Postal Service
U.S. Tax Court

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TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

THURSDAY, FEBRUARY 26, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:37 p.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Mikulski, Domenici, and D'Amato.

DEPARTMENT OF THE TREASURY

U.S. SECRET SERVICE

STATEMENT OF HON. FRANCIS A. KEATING II, ASSISTANT SECRETARY FOR ENFORCEMENT, DEPARTMENT OF THE TREASURY

ACCOMPANIED BY:

JILL E. KENT, DEPUTY ASSISTANT SECRETARY, DEPARTMENTAL FINANCE AND MANAGEMENT, DEPARTMENT OF THE TREASURY
JOHN R. SIMPSON, DIRECTOR, U.S. SECRET SERVICE
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DON A. EDWARDS, ASSISTANT TO THE DIRECTOR, TRAINING, U.S. SECRET SERVICE
FRANK PALMER, CHIEF, FINANCIAL MANAGEMENT DIVISION, U.S. SECRET SERVICE

OPENING REMARKS OF SENATOR DE CONCINI

Senator DECONCINI. The subcommittee will come to order.

This afternoon, the Subcommittee on Treasury, Postal Service, and General Government is meeting to receive testimony from the top officials from the U.S. Secret Service, the Bureau of Alcohol, Tobacco and

Firearms, and the Federal Law Enforcement Training Center—all agencies within the Department of the Treasury.

Our key witnesses from these agencies will discuss the President's budget plan for fiscal year 1988, plus any proposed supplementals or other actions taken by the President affecting the agencies in the current fiscal year.

Let me quickly say at the outset that I believe the President has been somewhat shortsighted in recommending his funding levels for all three of these agencies.

These three agencies have a multitude of important law enforcement missions that require people to do the job and there is not much for replacement of people. Shortcomings in both staffing and dollars in each of these agencies mean that they will be hard-pressed to do their difficult jobs and meet their mandates set out in the statutes. It is really that simple as far as I see it.

Sooner or later, the President will have to come to the conclusion that you need to bring some eggs to make an omelette, and what we are lacking here are the eggs. But Senators Domenici and Mikulski and the rest of us are prepared to make that omelette, I think.

Nevertheless, we look forward to hearing from these witnesses and to do what we have to do to make this a meaningful operating agency that will meet your demands.

Senator Domenici will be working with me as the ranking member. I am very pleased to have him on this subcommittee and have him in this particular capacity. Senator Barbara Mikulski is here and is an avid supporter of these agencies, and Senator D'Amato is here with us and we are glad that he is here. I look forward to all of your participation, as much as you want to give and as much as you want to get into it.

This afternoon, we have Francis Keating, Assistant Secretary of Treasury for Enforcement, who will be the primary Treasury witness, but will yield to each of the three agency chiefs to handle their portions of the testimony representing the three agencies.

First, we have John R. Simpson, Director of the Secret Service; Mr. Stephen Higgins, Director of the Bureau of Alcohol, Tobacco and Firearms; and Mr. Charles Rinkevich, Director of the Federal Law Enforcement Training Center.

Mr. Keating, would you proceed, and we will put into the record your full statement?

Excuse me, Mr. Keating. I will first yield to my colleague, Senator Domenici, the ranking member, for any opening statement.

Senator DOMENICI. I have none, other than I was thinking about the omelette and I thought maybe it would be better if we were making some good spaghetti.

Senator DECONCINI. Lasagna; I agree. [Laughter.]

Why did you use an omelette?

Mr. MILLS. I am not sure, Senator.

Senator DOMENICI. Barbara, would you agree? Four of us could be for spaghetti with good sauce.

Senator MIKULSKI. Well, I represent the kielbasa caucus. [Laughter.]

In my community, boilermakers are something you drink; it is not something you put in the building.

Senator DECONCINI. Let the record show, and correct the record, that we will not refer to it as an omelette, but lasagna.

Senator DOMENICI. All right.

Senator DECONCINI. Barbara, do you have an opening statement?

PREPARED STATEMENT OF SENATOR MIKULSKI

Senator MIKULSKI. Mr. Chairman, I do have an opening statement that I ask unanimous consent to have it placed in the record.

[The statement follows:]

STATEMENT OF BARBARA A. MIKULSKI

Mr. Chairman, it is a pleasure and honor for me to join you today for this first hearing of the subcommittee in the 100th Congress.

I was delighted when Chairman Stennis told me in December that I would be a member of this Appropriations subcommittee. This subcommittee is on the front line of some of the most challenging issues our country faces today: drug smuggling, law enforcement, improving trade, and protecting our Federal work force.

It is my hope that I will be able to learn from you as a member of your subcommittee and to work with you in many areas that will help lead our Nation into the 21st century.

At the same time, I hope that we will help our Nation on the road to fiscal responsibility by guaranteeing that every tax dollar the IRS collects generates 1 dollars' worth of service to taxpayers.

Today's hearing on the law enforcement agencies within the subcommittee's jurisdiction is an appropriate place for us to begin this year's hearings. It is these men and women who serve our country as law enforcement officials who face two of the most difficult issues of our day: drug smuggling and terrorism.

It is my hope to listen to today's witnesses and find out if they have the resources they need to combat crime and to create a better world within which to live.

I look forward to their testimony and to working with them to guarantee they have the financial tools to fulfill the missions for which they were created.

REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. I just want to say that I am an eager participant in this particular subcommittee and a strong supporter of law enforcement. I think the men and women who are part of the Federal services that will be represented here today have some of the most important law enforcement challenges facing the country.

They do not get any praise, they do not get any glory, but I am here to see what kind of money they need to at least do their jobs.

Senator DECONCINI. Thank you.

Senator D'Amato, do you have an opening statement?

PREPARED STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Thank you, Mr. Chairman. I would like also to submit my statement for the record as if read in its entirety.

Senator DECONCINI. Without objection, all the statements will be placed in the record.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE D'AMATO

Mr. Chairman, I am very concerned that the budget proposals we are considering today are unrealistic. They do not permit the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, or the Federal Law Enforcement Training Center to maintain current levels of performance, much less meet the demands of the future, or allow for inflation, the 3-percent pay raise, or the costs of the new retirement system.

SECRET SERVICE

Summary.—OMB proposes increasing the Secret Service budget from $323 million this year to nearly $364 million next year. Of this increase, $24 million is set aside for the Presidential campaign. There is a question whether $30 million will be enough. In 1984, there were only seven candidates, and the cost of protecting them was about $23 million.

Even if the funding for campaign security is sufficient, we are left with a $17 million increase for the other needs of the Service. The increased costs due to the new retirement system are estimated to be $12 million.

I do not believe that the remaining $5 million will enable the Secret Service to maintain current performance levels, keep up with inflation, or cover the cost of the recent 3-percent pay raise.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

1987.—The Bureau of Alcohol, Tobacco and Firearms also suffers. A rescission of $15 million involving 301 positions is proposed for this year, which would seriously weaken its Repeat Offender Program.

One hundred and thirty-six of the threatened 301 positions would come out of the Repeat Offender Program. This is a program we should strengthen, not weaken. In one year, 136 agents can initiate over 1,000 career criminal cases, involving about 700 defendants.

1988.—We are asked for $197.2 million, enough for 2,846 positions, a cut of 305 positions below the level funded in the continuing resolution for 1987.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Summary.—OMB proposes a rescission of $8,450,000 for the training center in 1987. Although this money should become available by about March 15, there are already signs that this rescission has forced a slowdown in the Center's ability to train Federal law enforcement personnel. I look forward to learning the effect of the rescission this year on antiterrorism training, and drug law enforcement training in particular.

In 1988, the situation becomes much worse. The Criminal Investigator Basic Training Program is expected to train 2,754 graduates this year. That number is reduced 54 percent to 1,258 in 1988 under the proposed budget.

Mr. Chairman, I look forward to working with you and the members of this subcommittee on developing a budget that is more realistic than the one before us.

Thank you, Mr. Chairman.

PREPARED STATEMENT

Senator DECONCINI. Mr. Keating, if you will summarize, your full statement will be entered in the record, and you may proceed.

[The statement follows:]

STATEMENT OF FRANCIS A. KEATING II

Introduction

Mr. Chairman and members of this Committee, it is a pleasure to appear before you today to urge your favorable action in support of the annual appropriation for the Federal Law Enforcement Training Center for Fiscal Year 1988.

Before I turn my attention to this request, I would like to introduce Charles F. Rinkevich, Director of the Federal Law Enforcement Training Center. Mr. Rinkevich is accompanied by other senior Center staff members, whom he will introduce personally later on. Also in attendance with us today is Jill Kent, Deputy Assistant Secretary for Departmental Finance and Management.

Pending Appropriation Request

The Center's FY 1988 Appropriation Request is for $23,133 thousand and 262 direct FTE positions. Approval of this pending appropriation request will ensure that the Center continues to provide a high level of quality training needed to support this Nation's critical law enforcement efforts. Specifically, the requested funding will permit the Center to meet certain costs for training all of its participating agencies and to maintain the Federal Government's investment of over $100 million in facilities at the Center's site in Glynco, Georgia.

Center Mission and Development

The Federal Law Enforcement Training Center represents an extraordinarily successful example of how interagency cooperation and consolidation can lead to improved government efficiency and effectiveness within an enviable scale of economy. The Center

was established as a result of a Memorandum of Understanding with participating agencies, whose collective resolve was to improve the training of Federal law enforcement officers throughout this country. Formed in 1970 with support of a handful of participating agencies, the Center has grown to include 60 Federal police and criminal investigative agencies from all three branches of government.

The concept for the Center was patterned after the former Treasury Law Enforcement School, which first pioneered the idea of consolidated training for all its Treasury bureaus. This school became the core for the creation of the Center and the Department of the Treasury assumed responsibility for administering the Center's operations. An eight member Board of Directors, representing a cross section of the entire spectrum of Federal enforcement, provides the direction and approval for training programs and policies.

Since 1975, the Center has occupied its permanent location at Glynco, Georgia. This site, a deactivated military base, consists of over 100 buildings on a 1500 acre facility ideally suited for law enforcement training. One of the enormous benefits afforded by this consolidation at Glynco has been the enhanced spirit of cooperation, appreciation, and understanding of the varied statutory enforcement activities carried out by all Federal organizations.

On any given day at Glynco, as many as 1600 law enforcement officers may be undergoing training. Core instruction programs are provided as a common backdrop for all new law enforcement hires to the Federal service. In addition, there are many visible examples of advanced training aimed at preparing officers and agents to adapt to the complexities of a changing environment. This may include a US Customs Inspector operating

at a mock port-of-entry site, an Inspector General employee learning how to investigate a computer fraud allegation, or a Deputy US Marshal executing a search warrant during a practical exercise raid.

Cost Avoidance

Although the quality of training is of great importance to Glynco, it is the Center's cost avoidance feature that makes it highly visible among government agencies. Three factors account for this: the consolidation of 60 separate agency training efforts in one location; the closure of several costly and duplicative training facilities previously used by some agencies; and the savings in per diem expenses realized from the use of a single residential site. Annually, the Glynco operation represents an estimated $53.9 million in savings to the American taxpayer.

Center Capabilities

Over the years, the Center has grown steadily in reputation and stature because it has shown itself to be a creative, flexible and "can-do" organization. The Center has been a leader within the Treasury Department in contracting-out various functions to the private sector; it has reduced the proliferation of basic training programs by eliminating or consolidating a number of programs; and it has been innovative in several training areas, such as the use of laser equipment in firearms training.

Among its most notable achievements, however, has been the Center's ability to expand and to adapt to rapidly changing needs in law enforcement. For example, the President designated Glynco as the site for the National Center for State and Local Training

in 1982. The emphasis for this effort has been on providing training presently not available to State/local officers and which takes advantage of the economics and special resources at Glynco. Since 1984, the Center has assisted the State Department by making available certain training for friendly foreign governments to combat international terrorism. At the request of the Federal Aviation Administration, the Center developed and conducted a series of special Air Marshal programs in response to the air piracy crisis that developed in 1985. Currently, the Center is working on training programs to support the Administration's drug enforcement efforts through Operation Alliance along the Southwest Border.

Closing

Mr. Chairman, the Treasury Department is committed to maintaining the excellence of the Federal Law Enforcement Training Center and its preeminence in the law enforcement training field. With this Committee's approval of the funding level request in FY88, the Center can continue to meet its primary obligation related to basic training and facility operations. As in the past, the Center anticipates that other training requirements will be accommodated on a reimbursable basis.

I now will ask Director Rinkevich to provide further elaboration on the Center's operations and funding request.

REMARKS OF FRANCIS KEATING

Mr. KEATING. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, as the committee is aware, Treasury has oversight responsibility for the Secret Service, and as Assistant Secretary for Enforcement, I have responsibility and oversight capacity for that Service directly for the Secretary.

As the committee is well aware, the Secret Service has a dual mission, not only a protective mission to protect the lives of the President and the Vice President and their families, as well as visiting foreign heads of state and spouses and the protection of embassy personnel and property in the Washington metropolitan area, but also has a very vital role to play in our law enforcement mission as a Federal Government.

As a former U.S. attorney, I have had occasion to deal with the Secret Service as law enforcement officers. They are highly skilled and highly professional, and the new jurisdiction provided by this and other Congresses to the Secret Service to get them fully involved as professionals is appreciated, I know, by the law enforcement prosecution community.

I might note a couple things by way of anecdote that might be of interest statistically to the committee. In 1986, in the criminal law enforcement area, of the known $45.7 million in counterfeit notes and coins produced, 85 percent were confiscated prior to being passed on to the public, approximately the same percentage as in 1985; 129 counterfeiting plants were also suppressed, an increase of 24 percent over 1985. As the committee is aware, the Secret Service has jurisdiction in the counterfeit and forgery areas.

Computer, credit card, and electronic funds violations continue to grow. The Secret Service is adapting its programs to meet these challenges as well. During fiscal year 1986, over 3,900 credit and debit card fraud cases and 8,000 direct deposit and electronic funds transfer cases were initiated.

It is a pleasure to introduce also, Mr. Chairman and members of the committee, Jill Kent, who is Deputy Assistant Secretary for Management, who handles our budget side at Treasury.

At this time, I would like to present for his formal presentation and to answer committee questions Mr. John Simpson, the Director of the Secret Service.

Senator DECONCINI. Thank you, Mr. Secretary, we appreciate your being here, and appreciate the testimony and the leadership you have provided to this particular area in Treasury. I think you have done a good job.

Mr. KEATING. Thank you, sir.

Senator DECONCINI. Mr. Director.

PREPARED STATEMENT

Mr. SIMPSON. Mr. Chairman, I have a long statement that I would ask your permission to submit for the record, and I have a short statement I would like to read.

Senator DECONCINI. Without objection, and please proceed with the summary.

[The statement follows:]

STATEMENT OF JOHN R. SIMPSON

Mr. Chairman, I am pleased to appear before you and the other members of this Committee to present the annual appropriation request of the United States Secret Service and to report on our activities during the current and past fiscal years.

Introduction of Associates

With me today, Mr. Chairman, is the Acting Deputy Director and Assistant Director for Protective Operations, Mr. Stephen E. Garmon, Mr. David C. Lee, Assistant Director for Administration, Mr. Joseph R. Carlon, Assistant Director for Protective Research, Mr. Kevin R. Houlihan, Assistant Director for Investigations, Mr. Don A. Edwards, Assistant to the Director for Training, and Mr. Frank Palmer, Chief of our Financial Management Division.

Appropriation Request

The pending appropriation request for Fiscal Year 1988 totals $363,999,000, an increase of $40,999,000 when compared with the proposed authorized level for Fiscal Year 1987 of $323,000,000. This net increase reflects Program Increases of $39,999,000, Maintaining Current Level cost increases of $39,986,000, and a reduction of $38,986,000 for non-recurring costs and savings. Over 60% of the requested program increases are related to the 1988 Presidential Campaign. The remainder of program increases will fund additional positions, technical security programs and continuation of enhancements to our Information Systems programs.

Continued Increase in Activities

The past year has shown a continuing increase in the activities of the Secret Service. During Fiscal Year 1986, we provided security to permanent protectees traveling extensively

throughout the United States and abroad, and to foreign leaders visiting the United States, especially in conjunction with special protective events. The Service also assumed additional permanent protection responsibilities during the year.

Fiscal Year 1986 was a year of continued global unrest impacting U. S. citizens and potentially threatening U. S. officials; thus, placing greater demands on the Secret Service than ever before. Terrorism exhibited growth, both in its violent nature and scope. Because of these existent terrorist and technical threats to those entrusted to our safety, the Service, more than ever, is pursuing the study and implementation of enhancements to our protectees' facilities and mobile environments. Despite these challenges, the Secret Service must carry out final preparations for the 1988 Presidential Campaign which may represent one of the largest Campaign protective endeavors in the Service's history. Therefore, the unprecedented protective measures required in Fiscal Year 1986 will have to be continued and enhanced in Fiscal Years 1987 and 1988 for our permanent protectees, visiting dignitaries, Presidential candidates, foreign missions and government facilities.

Mounting investigative responsibilities have also placed greater demands on the Secret Service. Overall caseload in fraud investigations continues to increase. Credit and debit card fraud case receipts have increased by 200 percent and arrests by a significant 224 percent from Fiscal Year 1985 to 1986. Increasingly sophisticated methods of counterfeiting and accessing credit cards and account numbers will require an even greater investigative effort in Fiscal Years 1987 and 1988. An additional responsibility conducted by the Secret Service involves conducting security surveys for United States Bullion Depositories and providing security escorts for certain Federal Reserve Banks and Bureau of Engraving and Printing currency shipments. Despite an increasing workload in the fraud jurisdictions, the Secret Service

did not experience declines in traditional areas of investigative caseload such as check forgery during Fiscal Year 1986.

Protective Effort

As in the past, protective responsibilities in Fiscal Year 1986 entailed numerous travel days, manhours, and a consummate effort from the Service's entire protective force.

In Fiscal Year 1986, we had the responsibility for providing protection during the United Nation's 41st General Assembly, as well as the Statue of Liberty Rededication, OPSAIL. OPSAIL, the largest event of its kind in recent years, was visited by a number of dignitaries and involved a major coordinated effort with several agencies.

The challenges associated with these events were made even greater with the additional security measures necessary to deter possible terrorist actions against such a large gathering of permanent protectees and foreign dignitaries. We were greatly aided in supplying the necessary security forces by personnel from other Federal law enforcement agencies, and State and local governments. I would like to commend these men and women for their outstanding support.

The trend of increased protective travel continued throughout Fiscal Year 1986 and early 1987 while major protective events such as OPSAIL, the United Nations General Assembly, the Geneva Summit, the Tokyo Summit, the USA/USSR Iceland Summit, the Caribbean Conference, the International Monetary Fund Meeting, and the INTERPOL meeting continued to test the efficiency and fortitude of our employees and security systems. Remaining major protective events anticipated in 1987 will be the Pope's visit to the U. S. in September, the Shamrock Conference in Canada, and the Economic Summit in Venice, Italy. Most significant, extensive protectee travel is anticipated in Fiscal Year 1987 on behalf of Republican

and Democratic aspirants for the Presidency, since a number of individuals have been suggested as potential candidates. A multitude of resources must be devoted to preparing for "Campaign 88."

Because of the effort and expert performance by all Service personnel, Fiscal Year 1986 was an overall success for the Secret Service in accomplishing its protective mandates. Due to the threats posed by international terrorism, the Service will continue to study, explore, and plan for enhanced capabilities to contend with these threats and strive to further secure protectees' facilities and mobile environments.

Permanent Protection

In Fiscal Year 1986 the Secret Service's permanent protectees included President Reagan and Mrs. Reagan, and members of their family; Vice President and Mrs. Bush; former Presidents Carter and Ford and their spouses; former First Lady Johnson, Chief of Staff Donald Regan, and Secretary of Treasury James A. Baker. These protectees traveled to 3,456 domestic and 267 foreign cities in 1986, both substantial increases over Fiscal Year 1985. During Fiscal Year 1988, preparations also will be made for the implementation of protection for a new President, Vice President and their families at their primary and secondary residences. A major activity in Fiscal Year 1988 will also involve planning for the establishment of a Former President's protective division.

Uniformed Division

The U. S. Secret Service Uniformed Division is mandated to protect the Executive Mansion and grounds, the New Executive Office Building, diplomatic missions located in the Washington metropolitan area, and under certain circumstances, foreign missions located outside the metropolitan area of Washington, D.C. Uniformed Division protection is also integrated with that for the

President, the Vice President and his residence and members of their immediate families. Public Law 99-591 authorized the Uniformed Division to assume protection of the main Treasury Building as an adjunct to improving and streamlining security of the White House Complex.

Activity was exceptionally heavy in Fiscal Year 1986 for the Uniformed Division magnetometer details. Screening persons in the vicinity of selected Secret Service protectees continued to be an effective program for uncovering weapons and deterring potentially harmful individuals from approaching protectees. The Uniformed Division's hard work is evidenced by the 1,836,209 individuals processed by the magnetometer details, a considerable increase over Fiscal Year 1985.

During Fiscal Year 1986, magnetometer details away from the White house resulted in 441,769 people being screened and 779 weapons located. These details will be especially critical in the safe conduct of "Campaign 88."

Uniformed Division responsibilities continue to expand with the addition of new magnetometer posts at the White House complex.

Our White House Branch also conducted tours for 1,066,826 visitors to the White House.

The Uniformed Division Foreign Missions Branch provided security for 444 foreign missions and embassies in Fiscal Year 1986. A total of 1,007 events received protective reinforcement from our Counter Sniper Unit, a substantial total for a non-campaign year. Substantial support to the Service's protective details was also provided by the Canine Explosives Detection Program which performed 82,967 searches during Fiscal Year 1986.

Treasury Police Force

The Treasury Police Force was absorbed into the Secret Service Uniformed Division in October, 1986. As an institution that was

197 years old, it was rich with honor and prestige. As such, the dedicated men and women who composed the Force will be a valuable asset to the Uniformed Division in responding to the realities of today, such as terrorism. This action consolidated the dual security systems of the White House Complex to provide for a stronger defense and enables us to perform in a more effective, cost-efficient manner. We were able to accomplish this consolidation and simultaneously successfully place each member of the Force in other Secret Service positions.

Because security for the main Treasury building forms an integral part of overall White House protection, the Secret Service has incorporated this facility under the White House Complex protective umbrella in accordance with provisions of Public Law 99-591.

Protection of Foreign Heads of State or Government

In 1986 the Secret Service assigned security details to 163 visiting foreign dignitaries and Heads of State, who had an average stay of 5.3 days. Protection of foreign VIP's included these annual events: the United Nations General Assemblies, the Caribbean Conference in Miami, the International Monetary Fund Meeting and the INTERPOL Meeting in Washington, D.C.

Providing a secure environment for our foreign visitors continues to be one of the Secret Service's highest priorities. This effort requires more protective and planning resources each year as visits continue to increase. In addition, National Security Decision Directive 207, signed by the President in January 1986, provided that the Secretary of the Treasury, by May 1, 1986, extend Secret Service protection to accompanying spouses of visiting heads of state. Thus, 12 spouses were afforded such protection from May thru September of 1986.

The Statue of Liberty Celebration in July of Fiscal Year 1986,

was visited by a number of dignitaries who were given Secret Service protection. During September 1987, Pope John Paul II will visit the U. S.

The Secret Service is also committed to a successful protective effort for the 1987 Pan American Games in Indianapolis. The Service expects a number of Foreign dignitaries and permanent protectees to visit the games. In addition, we will be involved in planning and preparing for the commemoration of the 200th Anniversary of the signing of the U. S. Constitution at Philadelphia, Pennsylvania.

In 1988, the Winter Olympics and a Commonwealth Conference will be held in Canada. In the past, when major events, such as these, have been held in a bordering nation it precipitated a considerable increase in visits to the U. S. by foreign heads of government. We are preparing for similar increases in visits in connection with these events in Fiscal Year 1988. It is imperative that our protective and planning resources are of the highest caliber to thwart the very real and existent terrorist threats to our international protectees.

Candidate/Nominee

Election years are always major tests for the Secret Service's protective forces. Currently, we are in the process of evaluating our manpower, euqipment and resource logistics associated with the 1988 Presidential Campaign. In Fiscal Year 1987 we will address planning, training and procuring communications equipment as vital preliminary steps to the expected commencement of candidate protection. Extensive training of Secret Service and other law enforcement personnel who are needed to support our campaign effort will begin in Fiscal Year 1987. The 1988 Presidential Campaign will have a major impact on overall protective travel, since we are preparing for a number of candidates who will travel in conjunction with the primaries, caucuses and party conventions.

Another significant factor is that our permanent protectees historically travel on behalf of their respective political parties campaign activities, thus adding to our heavy protective travel workload. Thus, the budgetary impact of Campaign 88 will be significant, and we will find it necessary to utilize all means available to effectively manage our resources.

Assistance of Other Federal, State, and Local Law Enforcement Agencies

Without the steady assistance of personnel from local, state and other Federal law enforcement agencies, fulfilling the Secret Service's mission would be extremely difficult. The support of these groups has been constant, cooperative and unselfish, allowing the Secret Service to provide the highest level of protection possible.

Field Offices

Special Agent personnel from the Secret Service's field offices spent a considerable portion of their duty hours supporting protective functions in Fiscal Year 1986. In 1986, fifty two percent (52%) of all Special Agent workhours were devoted to protection, with field office personnel contributing substantially to this effort. Much of this work involved conducting advance surveys for visiting protectees and providing physical protection for incoming permanent and temporary protectee details.

In addition to the heavy reliance upon the Service's investigative personnel for protective reinforcement, substantial hours were spent in protective-related investigations. Cases closed totaled 9,159 in Fiscal Year 1986, with 410 arrests, and 400 convictions. Despite the heavy commitment of investigative manpower to protection, the personnel in our field offices

maintained a highly effective level of criminal enforcement during Fiscal Year 1986.

Operational Balance

Since the safety of our protectees must be the highest priority of the Secret Service, our resources are first devoted to protective programs. However, the goal of the Secret Service is to promote a balance between investigative and protective duties, because we have found that investigative skills reinforce a special agent's protective skills. Therefore, the Service's expanding investigative jurisdictions have complemented and strengthened our protective capabilities and will continue to be an integral element of our protective strategy in the future.

Overall Investigative Caseload

Overall, the Secret Service's investigative caseload continues to increase. Investigations received in 1986 totaled 215,161, an increase of 6,519 over 1985 and 8,940 over 1984. Estimates of cases to be received in Fiscal Year 1987 exceed our Fiscal Year 1986 statistics by nine percent. A similar increase is expected in Fiscal Year 1988. The Secret Service closed 214,487 investigations in Fiscal Year 1986, an approximate increase of 15,565 cases over Fiscal Year 1985 and 25,453 over Fiscal Year 1984. The chart on the next page shows the total cases received for investigation over the past five years. Overall caseload is up by more than 21.5 percent over that period. Estimates of the number to be received in Fiscal Years 1987 and 1988 are also reflected on the next page (Chart A). Other functions performed in Fiscal Year 1986 included special investigations of Federal Reserve Bank thefts, Government Securities larceny, Farm Credit Administration (FCA) fraud, Federal Deposit Insurance Corporation

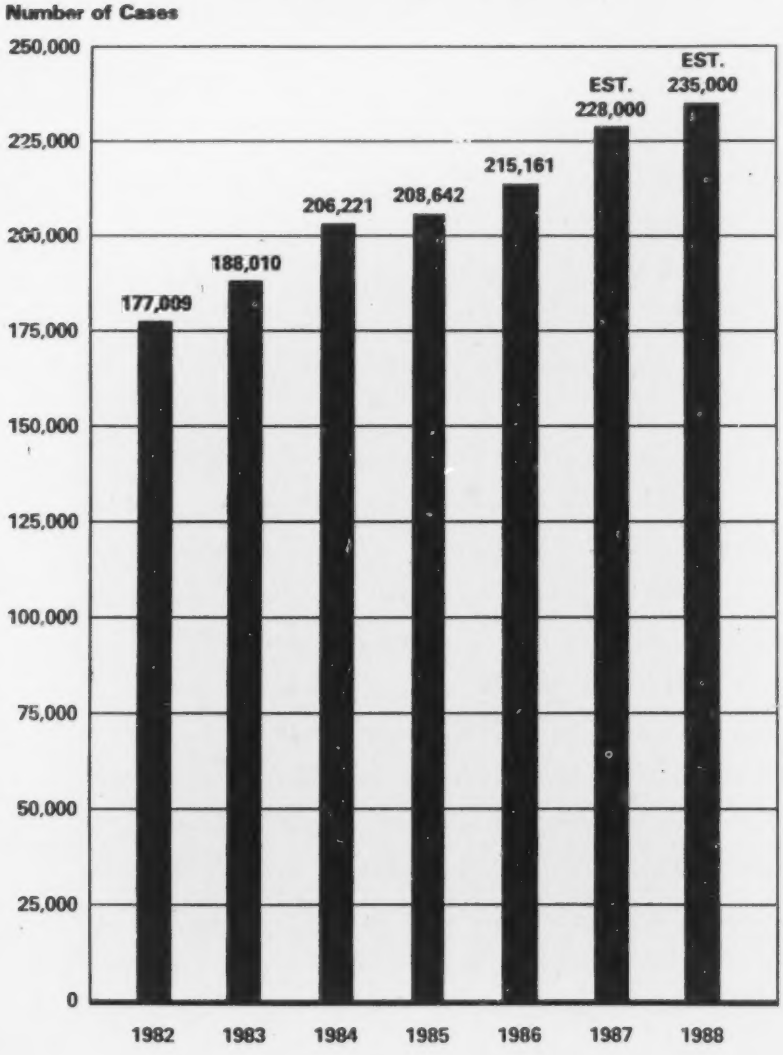
(FDIC) fraud and counterteit cashiers checks. Potential and real losses in these cases totaled approximately $245 million.

United States Secret Service

Chart A

Total Cases Received for Investigation

Fiscal Years 1982 - 1988



Access Device Fraud Investigations

The Secret Service's recently assumed responsibilities involving credit/debit card fraud required a significant reallocation of investigative resources during Fiscal Year 1986. Specific assignment of responsibilities between the Secret Service and the Federal Bureau of Investigation is defined by a memorandum of understanding. Credit and debit card fraud cases received by the Service in 1986 increased by approximately 200 percent over Fiscal Year 1985. Over 3,900 cases involving access device fraud were initiated in Fiscal Year 1986, which involved $21.3 million in actual losses. However, the Service prevented additional losses of $100.2 million, and 1,394 individuals were arrested in connection with these violations (an increase of 224 percent).

In Fiscal Year 1987, we will continue to assist credit/debit card companies in developing and implementing anti-counterfeit security features. We will also establish a computer center to monitor nationwide "computerized bulletin board" systems which are used as a means to violate credit/debit card and computer crime laws. The Secret Service continues to see a tremendous increase in fraudulent telemarketing operations which have accounted for the loss of millions of consumer dollars. This trend shows no indication of declining.

The enforcement of our Access Device Fraud jurisdiction will be enhanced in 1988 with the development of a program for the detection and enforcement of Federal law violations in connection with consumer reporting agency computer systems.

Counterfeiting Activities

In Fiscal Year 1986 domestic counterfeit note passing activity and plant suppressions increased slightly as 200,898 counterfeit notes were passed on the public. The value of counterfeit notes seized before being passed to the public totaled $38.8 million, a

decline from 1985. A total of $6.9 million was recovered after being passed on to the public, about the same as in 1985. Thus, of the known $45.7 million in counterfeit notes and coins produced, 85 percent was confiscated prior to being passed on the public.

A total of 1,794 new counterfeit notes were examined and classified. The Service will establish a computerized system in Fiscal Year 1987 to more efficiently search and classify new counterfeit notes.

One hundred and twenty-nine counterfeiting plants were also suppressed, an increase of 24% over 1985.

Permanent Secret Service offices were established in Milan, Italy and London, England to suppress international counterfeiting since almost 50 percent of the counterfeit circulated in the United States is produced overseas. These offices will provide the Service with a permanent and cost-effective deterr nt to foreign counterfeiting originating in Europe.

The Secret Service plans to establish an additional foreign field office in Bangkok, Thailand in furtherance of previous Congressional approvals in this area.

The following charts (Fiscal Years 1982 to 1986) show the dollar value of counterfeit notes seized before circulation, the overall losses to the public, and the number and dollar value of counterfeit notes passed (Charts B and C).

Check Forgery

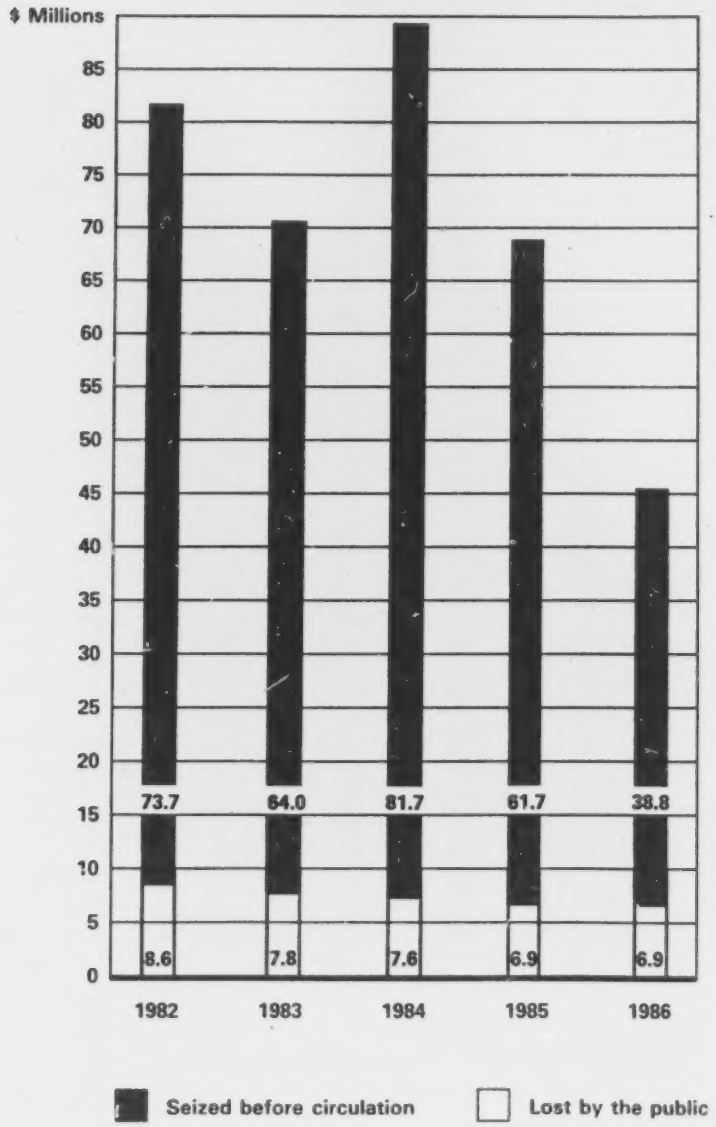
Check forgery and check-related crimes remain a major investigative area for enforcement. Check forgery cases received increased from 92,373 in Fiscal Year 1985 to 119,498 in Fiscal Year 1986, representing a 29 percent increase, reversing the decline between 1984 and 1985. Arrests of individuals in Fiscal Year 1986 declined slightly from 1985 (4,679 versus 4,719.)

United States Secret Service

Counterfeiting Activity

Fiscal Years 1982 - 1986

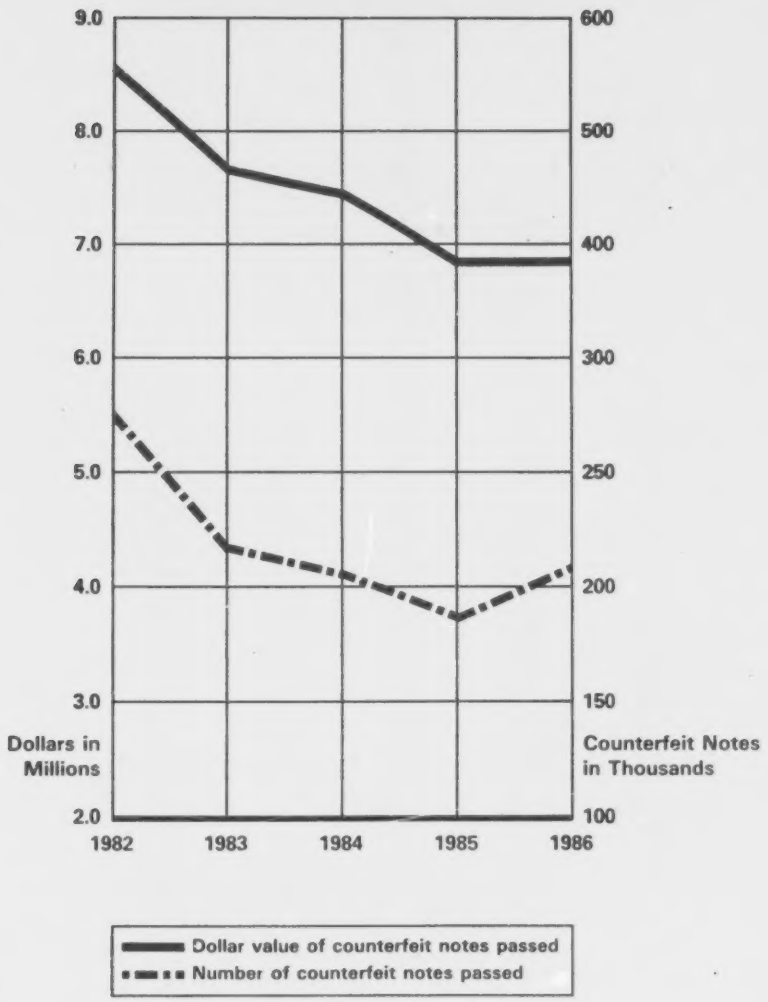
Chart B



United States Secret Service

Chart C

Counterfeiting Trends
Fiscal Years 1982 - 1986



Once forged checks are discovered, they are subjected to technical analysis of handwriting/endorsements by the Forgery Division and compared with previously received forged checks. Noted similarities are then used to associate these checks with known or unidentified check forgers.

In Fiscal Year 1986 the Secret Service coordinated the investigation of the Philippine altered check case which consisted

of more than 30,000 forged U. S. Treasury checks that were transported to the Philippines for alteration and then fenced throughout the world for negotiation. Over 100 individuals were arrested, with $42.7 million negotiated, and over $70 million worth of altered checks seized. This single investigation uncovered the largest total dollar value for forged checks in Secret Service history. The trail of altered/forged checks led from Southeast Asia to the Pacific, Central America, Africa, Europe, and the Mid-East.

The following chart reflects the number of check cases received for investigation for Fiscal Years 1982 through 1986 with estimates for Fiscal Years 1987 and 1988 (Chart D).

Bond Forgery

Investigations received for bond forgery cases decreased slightly from 5,420 in Fiscal Year 1985 to 5,249 in Fiscal Year 1986. However, bond violation arrests increased from 67 to 113 during the same period.

The following chart details bond forgery cases received for investigation from Fiscal Years 1982 through 1986, with estimates for Fiscal Years 1987 and 1988 (Chart E).

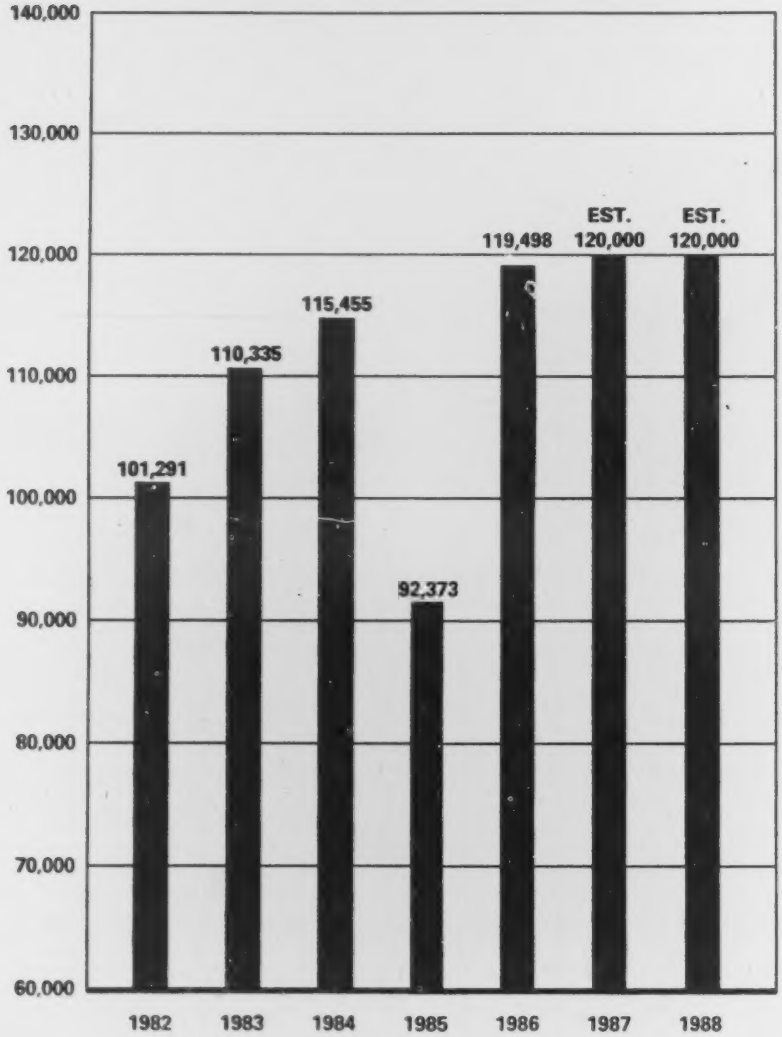
Computer Fraud

In October of 1984, 18 U.S.C. 3056 was amended to authorize the Secret Service to "detect and arrest any person who violates any of the laws of the United States relating to electronic fund transfer frauds..." Also, the Computer Fraud and Abuse act of 1986 (P.L. 99-474) authorizes the Secret Service to investigate offenses dealing with access device and computer fraud.

United States Secret Service Chart D

Number of Forged Check Cases Received for Investigation

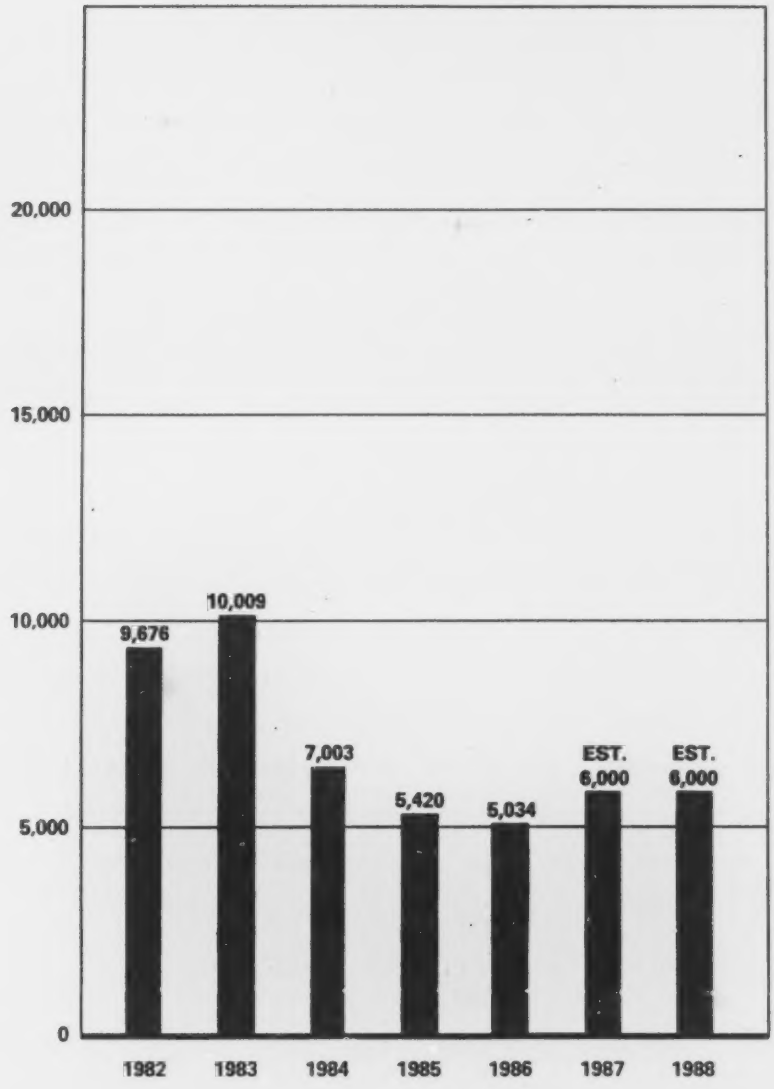
Fiscal Years 1982 - 1988



United States Secret Service Chart E

Number of Forged Bond Cases Received for Investigation

Fiscal Years 1982 - 1988



Direct Deposit and Electronic Funds Transfer Investigations totaled 8,004 in Fiscal Year 1986, a small increase over Fiscal Year 1985. Arrests were also up by 29 during this time period. In Fiscal Year 1986, the Service coordinated electronic funds

transfer (EFT) fraud detection and prevention programs with Federal program agencies as a result of Treasury Bulletin No. 83-84. We will continue to participate in the Electronic Funds Transfer (EFT) Certification Task Force to develop standards for internal controls for Federal agencies that utilize electronic funds transfers. In Fiscal Year 1988, we will develop a program for the detection, reporting and enforcement of violations of Federal law concerning civilian electronic funds transfers and credit bureau computer systems. Undoubtedly, this jurisdiction will demand more resources in the future as the Secret Service learns more about counteracting the sophisticated tactics and techniques associated with this form of computer fraud.

Organized Crime

The Secret Service continues to participate in the Organized Crime Strike Force Program of the Department of Justice and is an active member of the National Organized Crime Planning Council, which consists of members of Federal law enforcement agencies. The Council visits the various strike forces throughout the country and gathers information concerning organized crime activities. At present, the Secret Service has designated 14 Organized Crime Strike Force representatives in our field offices who coordinate their efforts with the national representative assigned to headquarters.

Protective Research

Technical Security Systems

During Fiscal Year 1986, significant milestones were achieved which centered around the enhancement of facilities security in response to existent terrorist dangers. Enhancement of White House Complex security and access controls continued. Construction of East Executive Avenue was initiated in February of

1986 to improve security of the Eastern side of the White House. This includes installation of crash resistant gates, fencing and police booths at the north and south entrances to East Executive Avenue. We expect the project to be completed in the second quarter of Fiscal Year 1987.

Physical security and access control measures initiated in Fiscal Year 1986 will be expanded and completed in Fiscal Years 1987 and 1988. Explosive effects studies for various locations utilized by our protectees and testing of vehicle armor were completed last fiscal year, while upgrades to personal body armor will be done in Fiscal Year 1987. In Fiscal Year 1987, we will complete the study, design, test, and evaluation for a White House specialized intrusion detection system. Both these systems will be installed in Fiscal Year 1988. In addition, physical security at Camp David will be upgraded in Fiscal Year 1988.

I formation Systems

Since the beginning of this decade, the Secret Service has been involved in planning and implementing an organization-wide ADP modernization program. The program includes: creating centrally supported databases; upgrading mission-support computer applications for front-line users; replacement of our mainframe computer system along with splitting mainframe locations between headquarters and an alternate site; acquisition of standard multi-purpose computer workstations; implementation of a nationwide network to interconnect all Secret Service locations electronically.

In Fiscal Year 1986, the Service awarded contracts to assist with the purchase and implementation of a new mainframe computer system and for design, installation and support services for the nationwide communications Network.

This fiscal year we will install the new mainframe computers and complete the design and testing for the nationwide

Communications Network. One-third of our field office locations will be brought on-line this year, with the remaining ones brought on-line in Fiscal Year 1988. We will finish the final phases of the Protective Operations Management System in support of the 1988 Presidential Campaign. The Service will purchase additional Voice Privacy radio equipment in preparation for candidate nominee activities and the Campaign and complete operational testing of the pilot system. Beginning with full coverage of the national convention in Fiscal Year 1988, we will utilize Service-wide encrypted Radio Voice Privacy.

Intelligence Data

A Terrorism Section was established during Fiscal Year 1986. Its purpose is to achieve better coodination with the Intelligence Community and maintain accurate and current data on worldwide terrorist activities. We completed the requirements analysis for the new Integrated Protective Intelligence System, which will be implemented in Fiscal Year 1988, and conducted psychological research studies to improve our ability to assess behavior of potentially dangerous subjects.

Training

The Office of Training experienced an extremely busy Fiscal Year 1986 and anticipates the same this fiscal year. A total of 1,400 special agents were trained in all phases of Secret Service responsibilities, which included Master Central Index user training, protective research briefings, and protective detail training. Through Protective Operations Briefings, over 3,400 Federal, state, and local law enforcement officers received orientations relative to Secret Service protective procedures. These briefings will continue in Fiscal Years 1987 and 1988 so that these personnel can assist the Service with our Campaign

endeavors. Over 25,000 personnel received firearms training at our Beltsville facility, and 1,600 Uniformed Division Officers received training.

During Fiscal Year 1986, relevant classes were developed on anti-terrorism training and hostage management, due to the continued and significant rise in terrorist related events throughout the world. Micro computer and Master Central Index courses were developed and taught to accommodate our employees dealing with new computer systems. Additional computer related courses plus a computer based training system will be implemented in 1987.

Preparation for the 1988 campaign is currently underway encompassing the latest training techniques for special agent personnel. Courses are being implemented for Detail Supervisors, Advance Agents, and operations and support personnel. Twenty candidate details will be planned, and courses to train between 1,000 and 2,000 Treasury Department agents who will assist with the Campaign will be conducted in Fiscal Year 1987. Funding is requested in Fiscal Year 1988 for the protection of 13 candidates.

Development of the James J. Rowley Training Center remains a priority for the Secret Service with eventual completion of the master plan being our ultimate goal. Construction of the Security and Computer Building, Protective Driver Training Course, and simulated airport apron will begin this summer. Funds appropriated for this project in Fiscal Year 1986, will be used to build these structures. They are scheduled for completion in December, 1988. Final plans are being completed for construction of the Countersniper Observation Tower and Tactical Response Training area, with the monies appropriated for this project in Fiscal Year 1987.

During Fiscal Year 1988, the Service will continue the Training Center construction program. A Perimeter Road Network and Physical Training Building constitute future development necessary to complete the Master Plan.

Equal Employment Opportunity

The Service continues to pursue a vigorous program for the recruitment of qualified minority employees, as well as a program to prepare minority clerical employees for advancement into administrative and technical positions. As you know, the Service has a special need for minorities in the ranks of our special agents and uniformed officers. Accordingly, we are conducting significant recruitment efforts for these categories of personnel so that we can compete with private industry for qualified minorities. A record number of minority applicants were hired as special agents in Fiscal Year 1985, and this trend even increased sharply in Fiscal Year 1986. In 1985 approximately 29.9 percent of all special agents hired were from a minority group, and in 1986 this figure jumped to 43 percent.

Extensive efforts were made during Fiscal Year 1986 in cities where we could gain access to designated minority groups. We processed over 1,086 applications from these recruitment groups for special agent and uniformed officer positions and intend to continue in this vitally important endeavor.

Freedom of Information and Privacy Acts

During Fiscal Year 1986, the Service processed 561 Freedom of Information requests and 71 Privacy Act requests. Additionally, our Chief Counsel processed 44 FOI administrative appeals and actively assisted in the litigation of 14 judicial appeals. In Fiscal Year 1986, direct expenses associated with processing FOI and Privacy Act requests amounted to $249,132. Of this amount, the fee recovered through FOI billings was $1,272 or one half of one percent of expenses.

Summary

In summary, Mr. Chairman, Fiscal Year 1986 was a successful and demanding year for the Secret Service with new responsibilities in the protective area and a continuing increase in investigative arenas. Our greatest concerns were upgrading security measures for protectees' facilities and mobile environments to cope with ever-present, worldwide terrorist aggression, keeping pace with a host of major protective events, initiating a planning effort for the 1988 Presidential Campaign, establishing a foreign dignitary spouse protection program, and ensuring that our personnel received the highest caliber of training to meet the challenges that face us. The safety of our protectees must always be the Service's first priority, and it requires an increasingly higher level of effort. As a result, more manpower was expended in protective activities in Fiscal Year 1986 and our technical capabilities continued to reach new levels of sophistication. In that respect, Fiscal Year 1986 set the stage for meeting future protective and investigative demands.

I am always grateful for this Committee's understanding and support of the Secret Service. I would also like to acknowledge the supreme efforts of our Secret Service employees who possess the individual pride and concern that produces an outstanding team effort. This same intense, dedicated effort from our agency will continue in the future.

Mr. Chairman, this concludes my statement. I will be pleased to answer any questions you or the other members of the Committee may have.

INTRODUCTION OF ASSOCIATES

Mr. SIMPSON. Mr. Chairman, I am pleased to appear before you and the other members of this committee. Senator Mikulski, I happen to be a constituent of your and I am very pleased to have you here.

I am here to present the annual appropriation request for the U.S. Secret Service and to report on our activities during the current and past fiscal years. With me today, Mr. Chairman, is Stephen E. Garmon, who is the Acting Deputy Director, and also in his capacity as Assistant Director for Protective Operations; Mr. David C. Lee, Assistant Director for Administration; Mr. Joseph R. Carlon, Assistant Director for Protective Research; Mr. Kevin R. Houlihan, Assistant Director for Investigations; Mr. Don A. Edwards, Assistant to the Director for Training; and Mr. Frank Palmer, the Chief of our Financial Management Division.

APPROPRIATION REQUEST

The pending appropriation request for fiscal year 1988 totals approximately $364 million, an increase of $41 million when compared with the enacted level for fiscal year 1987 of $323 million.

This net increase reflects program increases of approximately $40 million, maintaining current level cost increases of $40 million, and a reduction of $39 million for nonrecurring costs and savings.

INCREASE IN PROTECTIVE ACTIVITIES

Protective activities of the Secret Service continued to increase during the past year. As part of our mandated function, we provided security to permanent protectees traveling extensively throughout the United States and abroad and to foreign leaders visiting the United States, especially in conjunction with special protective events.

The Service also assumed additional permanent protection responsibilities during this past year. This year, the Secret Service must complete final preparations for the 1988 Presidential campaign, which we expect will represent one of the largest campaign protective endeavors in the Service's history.

As in the past, protective responsibilities in fiscal year 1986 entailed numerous travel days, man-hours, and diligent effort from the entire Service. In fiscal year 1986, we had the responsibility for providing protection for the United Nations 40th and 41st General Assemblies, as well as the Statue of Liberty rededication. This event involved a major coordinated effort with several agencies, and I would like to commend these agencies for their outstanding support.

FOREIGN DIGNITARY PROTECTION

In fiscal year 1986, the Secret Service also assigned security details to 163 visiting foreign dignitaries and heads of state. Providing a secure environment for our foreign visitors continues to be one of the Secret Service's highest priorities.

In addition, National Security Decision Directive 207, signed by the President in January 1986, provided that the Secret Service extend protection to accompanying spouses of visiting heads of state.

PROTECTIVE ENDEAVORS

During September of the current fiscal year, Pope John Paul II will visit the United States. The Secret Service is also committed to a successful protective effort for the 1987 Pan American Games in Indianapolis this summer.

In 1988, the winter Olympics and a commonwealth conference will be held in Canada. In the past when major events such as these have been held in a bordering nation, it typically precipitates a considerable increase in visits to the United States by foreign heads of government.

1988 PRESIDENTIAL CAMPAIGN

Election years are always major tests for the Secret Service. Currently, we are in the process of evaluating the logistics associated with the 1988 Presidential campaign. The 1988 Presidential campaign will have a major impact on overall protective travel, since we are preparing for an extensive number of candidates who will travel in conjunction with the primaries, caucuses, and party conventions. Thus, the budgetary impact of campaign 1988 will be significant and we will find it necessary to utilize all means available to effectively manage our resources.

TREASURY POLICY FORCE ABSORBED

The Treasury police force was absorbed into the Secret Service Uniformed Division in October 1986. This action consolidated the dual security systems at the White House complex to provide for an enhanced security apparatus, and it enables us to perform in a more effective and cost-efficient manner. We were able to accomplish this consolidation and successfully place each member of the force in other Secret Service positions.

In concert with this consolidation, Public Law 99–591 authorized the Uniformed Division to assume protection of the Main Treasury Building as an adjunct to improving and streamlining security for the White House complex.

INCREASE IN INVESTIGATIVE CASELOAD

The Secret Service's overall investigative caseload also continues to increase. Investigations received in fiscal year 1986 totaled 215,161. The Secret Service closed 214,487 investigations. Overall caseload is up by more than 21.5 percent over the past 5 years.

Credit and debit card fraud case receipts have increased by 200 percent, and arrests increased by a significant 224 percent from fiscal year 1985 to 1986. In fiscal year 1987, we will continue to assist credit/debit card companies in developing and implementing anticounterfeit security features.

REFERRAL SYSTEM

In fiscal year 1988, we will develop a referral system to enhance the enforcement of violations of Federal law concerning Federal interest computers. This includes commercial banking electronic funds transfers, automatic teller machines, direct deposits, automatic payments, and consumer reporting agency computers pursuant to the Computer Fraud and Abuse Act of 1986.

Undoubtedly, this jurisdiction will demand the devotion of more resources in the future as the Secret Service learns more about counteracting the sophisticated tactics and techniques associated with this form of computer fraud.

ADP MODERNIZATION

Since the beginning of this decade the Secret Service has been involved in planning and implementing an organizationwide ADP modernization program. This fiscal year, we will also complete the design and testing for a nationwide communications network. One-third of our field office locations will be brought on line this year, with the remaining ones brought on line in fiscal year 1988.

TRAINING

The Office of Training experienced an extremely busy fiscal year 1986 and anticipates the same this fiscal year. Preparation for the 1988 campaign is currently underway, which encompasses the latest training techniques for our special agent personnel. Extensive briefings for between 1,000 and 2,000 Treasury Department agents who will assist with the campaign will be conducted by personnel from our Office of Training in the very near future.

Development of the James J. Rowley Training Center remains a priority for the Secret Service, with the eventual completion of the master plan being our ultimate goal.

EQUAL EMPLOYMENT OPPORTUNITY

The Service continues to pursue a vigorous program for the recruitment of qualified minority employees, as well as a program to prepare minority clerical employees for advancement into administrative and technical positions. In 1986, approximately 43 percent of all special agents hired were from a minority group.

SUMMARY

In summary, Mr. Chairman and members of the committee, fiscal year 1986 was a successful and demanding year for the Secret Service, with new responsibilities in the protective area and a continuing increase in the investigative arena.

Our greatest concerns were upgrading security measures for our protectees' facilities and mobile environments to cope with the ever-present worldwide terrorist aggression. Additionally, our efforts were directed

toward a host of major protective events and initiating plans for the 1988 Presidential campaign.

Undoubtedly, the safety of our protectees constitutes a national priority and it requires an appropriate level of effort and resources. I am always grateful for this committee's understanding and support of the Secret Service. I would also like to acknowledge the supreme efforts of our Secret Service employees who possess the individual pride and concern that produces an outstanding team effort.

Mr. Chairman and members of the committee, this concludes my statement. I would be pleased to answer any questions that you or the other members of the committee might have.

PROTECTION FOR POPE JOHN PAUL II

Senator DECONCINI. Mr. Director, thank you very much. I have a number of questions, and I will submit most of them. I am concerned about the Pope's visit later this year, I think September. He is traveling to nine different communities, including my State.

I notice that these communities are being asked to put up a substantial amount of money to cover the cost of his visit, and they tell me that much of it is for security and communication preparation.

How much can you rely on the security in the nine cities that the Pope is visiting that you do not have to duplicate, or will it actually help you budgetarywise, if these cities put up this kind of money?

I know Phoenix has to put up over $1 million for a 1-day visit there.

Mr. SIMPSON. Yes, sir; we are working very closely with the law enforcement officials of all nine cities. We believe that they will give the maximum effort possible based upon our experiences with them over the years. This includes past campaigns and/or visits of our protectees to their particular locations.

SUPPLEMENTAL REQUEST

Unfortunately, we are going to run into a bit of a difficulty because, very honestly, we did not budget for a visit of the Pope in 1987.

Therefore, we are going to submit a supplemental budget request.

Senator DECONCINI. For that purpose?

Mr. SIMPSON. For that purpose, sir, as well as the 3-percent pay increase authorized in fiscal year 1987, and the increased cost of FERS. Currently we estimate that the visit of the Pope will cost $5 to $7 million.

Senator DECONCINI. Will the Secret Service be the primary security agency?

Mr. SIMPSON. Yes, sir; we are the primary agency responsible for security of the Pope, as well as coordinating the various protective sites.

In the nine cities there will be 63 sites to be visited by the Pope.

Senator DECONCINI. Including motorcades?

Mr. SIMPSON. Yes; including motorcades. Some of the sites are going to have over 1 million people attending, according to the best estimates of the clergy and the officialdom in the cities that he is to visit.

I very frankly do not know when he is going to sleep. We asked one of the papal representatives when did they expect the Pope to have an opportunity to rest and they just looked at us and shrugged.

Senator DECONCINI. Will you have to spend some of that money soon?

Mr. SIMPSON. Yes, sir; probably sooner than we anticipated. We are not sure at this point in time. Planning is still in the preliminary stages. Some of the cities had not, up until very recently, selected the actual sites where the Pope was going to visit.

We have had several preadvance visits to the cities. I think that we are ready to put into operation our plan for his activities in these cities.

COUNTERTERRORISM FUNDS

Senator DECONCINI. Thank you, Mr. Director. We do not look forward to the $5 or $7 million supplemental request because of the budget restraints, but I can appreciate your concerns, and I think the sooner you can get some of that to us, the better.

I would like to comment on the President's request of $3,660,000 for counterterrorism to combat the terrorist threat aimed at Secret Service protectees both at home and abroad.

I am delighted to see that the Service has moved out smartly in this area of counterterrorism initiatives—initiatives that are part of the fiscal year 1986–87 appropriations bill for Secret Service, Customs, BATF, and other Treasury agencies.

Yet, I notice that the President, on the other hand, assumes that you will not need $3,660,000, the exact same amount, for the counterterrorism program in fiscal year 1988, since this amount represents a so-called nonrecurring expense that will not be needed in fiscal 1987.

Can you explain to us what this means? It looks like a sleight of hand to me, and maybe you have a little better information on it.

Mr. SIMPSON. I cannot——

Senator DECONCINI. Why is it deemed a nonrecurring cost?

Mr. SIMPSON. Well, the fact of the matter is, Senator, that OMB allowed it to be in the 1988 budget. They took it out as a nonrecurring cost and included it as a program increase. You would have to ask an accountant for the rationale. I am afraid I cannot give you any kind of reasonable explanation at this point in time.

Senator DECONCINI. Did you raise it with OMB?

Mr. SIMPSON. Yes, sir; we raised it with OMB. It is in the budget. They took it out and restored it as a program increase. It is some sort of an accounting procedure.

Senator DECONCINI. What will you be spending on the counterterrorism program?

Mr. SIMPSON. We will spend the full amount, sir, thanks to you and this committee.

Senator DECONCINI. You are going to spend $3,660,000?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. That is what you are going to spend, regardless of what OMB calls it or terms it?

Mr. SIMPSON. That is right, sir, we will. As you pointed out, we are off the mark in many areas. We have used the money that you and the committee have given us in the past. At least in my humble opinion, the money that we received was spent wisely and at this point, we are ahead as far as our terrorism defenses are concerned.

Senator DECONCINI. Do you go to OMB with these requests, or do you, Mr. Keating? Who actually takes the Secret Service request up there and argues it out, or is that how it works?

Mr. SIMPSON. Well, we all do.

Senator DECONCINI. You all go together?

Mr. SIMPSON. Ms. Kent, Mr. Keating, and myself.

Senator DECONCINI. It goes up to you and up to main Treasury and goes over there. Then do you get a chance to go over there?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. And do you recall what the original request was for your Service?

Mr. SIMPSON. Yes; it was the amount of money that is in there at the present time, $3.7 million.

Senator DECONCINI. For the whole agency?

Mr. SIMPSON. For our agency.

BUDGET REQUEST TO OMB

Senator DECONCINI. Yes; for your agency. And your overall request?

Mr. SIMPSON. Are you talking about overall budget request?

Senator DECONCINI. Yes; budget request.

Mr. SIMPSON. This year?

Mr. MILLS. Originally, to OMB?

Mr. SIMPSON. Originally, it was $387 million, I think it was, give or take $386 point something; we rounded it off to $387 million.

CANDIDATE PROTECTION/PERSONNEL COSTS

Senator DECONCINI. And what was their justification for cutting that back?

Mr. SIMPSON. Well, we had a difference of opinion, and I think it was a healthy difference of opinion, regarding the number of candidates that were going to be running this year. So OMB reduced the amount cut us in the area of candidate protectee money as well as some of the other programs.

We were given a certain amount of money, for instance, for FERS, which is the Federal Employee Retirement System, and for the pay raise. Unfortunately, as you well know, Senator, the amount of money that we received, at least that we put toward that allocation, is not going to nearly cover the expenditures. We are going to be short $14.8 million.

Senator DECONCINI. Fourteen million?

Mr. SIMPSON. It is $14.8 million.

Senator DECONCINI. Senator Domenici.

Senator DOMENICI. Thank you very much, Mr. Chairman.

I have about 10 or 12 prepared questions and with your permission, Mr. Chairman, I will leave them with my staff person and to the extent that they are asked, we will not submit them. If they are not, we would ask that they be submitted for response.

Senator DECONCINI. Without objection, they will be handled in that manner.

COMPARISON OF WORKLOAD AND STAFFING LEVELS

Senator DOMENICI. Let me ask about three or four rather quick ones. I think you have to supply them, but since you mention in your statement that you have significantly added responsibilities in recent years, I think it might be helpful if you could provide the record with a simple but meaningful kind of comparison of your workload and the staffing levels, say, from fiscal year 1979 to the present.

Could you get us that in some kind of a quick summary?

Mr. SIMPSON. I sure will.

[The information follows:]

UNITED STATES SECRET SERVICE SELECTED WORK LOAD STATISTICS

	1979	1980	1981	1982	1983	1984	1985	1986	Percent Increase 1986/1979	Percent Increase 1986/1980
SPECIAL AGENTS	1,575	1,575	1,575	1,575	1,775	2,000	1,965	1,965	24.76%	
Manyears (Total Hours/2,080)										
Protection	923	1,344	1,141	1,122	1,082	1,543	1,283	1,213	31.42%	
Caseload										
Protective Research	99,000	117,000	111,400	121,600	117,100	150,900	140,300	142,500	43.94%	
Investigative	127,962	138,111	154,283	177,009	188,010	206,221	208,642	215,161	68.14%	
Total Caseload	226,962	255,111	265,683	298,609	305,110	357,121	348,942	357,661	57.59%	

New Responsibilities: Access Device Fraud; Electronic Fund Transfer Fraud; Computer Fraud; False Identification Fraud; Telemarketing Fraud; Foreign Dignitary Spouse Protection; Former President Carter Detail

UNIFORMED OFFICERS	840	800	858	895	959	1,008	1,008	1,038	23.57%	
Total Uniformed Officer Overtime Hours		149,000	198,000	222,000	207,000	271,000	308,000	260,000		74.50%
Foreign Missions Protected		409						500		22.25%

New Responsibilities: Specialized Counterterrorist Support for President, Vice President and Foreign Dignitaries; New Executive Office Building Protection; Treasury Building Protection; East Executive Avenue Protection; Workers and Visitors Entry System (WAVES); Magnetometer Screening for President, Vice President and Foreign Dignitaries

FROZEN APPROPRIATIONS

Senator DOMENICI. My second question also may require that you reduce this to writing and submit it, and I guess I would put it this way. I have two what if questions. The first one is if your fiscal 1988 appropriation was frozen at the fiscal 1987 funding level, what impact would that have on your agency.

Of course, it is up to you and the chairman, but I do not expect you to answer that right now.

Mr. SIMPSON. It would be devastating at this point. We would not be able to handle the 1988 campaign.

Senator DOMENICI. I think that if you could, with a little bit more of a comparison of numbers, submit that to us, I think it is going to be rather important in the next 2 or 3 months.

Mr. SIMPSON. Yes, sir.

[The information follows:]

If the Service's fiscal year 1988 appropriation is frozen at the fiscal year 1987 level, the budget will be obviously restricted. A funding freeze will make it difficult to fund the campaign, the pay raise, and FERS. These three items alone represent 84 percent of the total increase in the fiscal year 1988 congressional budget.

However, given a funding freeze, the Secret Service would have to implement cutbacks such as those imposed under the Gramm-Rudman-Hollings sequestration.

A funding freeze would force the Service to impose hiring restrictions. The number of permanent change of station moves would be reduced, limiting such authorizations only to relocations necessitated to staff managerial vacancies.

Fewer law enforcement sedans will be replaced.

The Service would have to forego replacing a significant portion of supplies such as uniforms for our uniformed division officers.

Additional cuts to employee tuition and education funds will impede job development and the ability to assume increased responsibility in their positions.

A funding freeze will affect the resources and indirectly the manpower currently used to effectively fulfill our bureau mission. Overall, a funding freeze would have a restrictive impact on the effectiveness of performing our bureau mission.

NO BUDGETARY RESTRAINTS

Senator DOMENICI. And then this one is kind of the opposite what if. If we did not have real, major budgetary restraints, what would you have recommended that you did not get in the budget that is before you? Could you do that?

And I am not now asking that you divulge to us your OMB submittals. That is up to you. You can say you do not want to give us those; that has always been the privilege of people in the executive branch.

Now, I am asking you as Director, looking at the problems you have got, my second what if is if there was not restraint, what would you do. Can you get that for us?

Mr. SIMPSON. Yes, sir; I would be more than glad to.

Senator DOMENICI. All right.

Mr. SIMPSON. I can give it to you right off the top of my head. We had a very thorough and very good exercise in budgetary back and forth with Treasury, and they are diligent and fair in their budgetary reviews.

We came out of Treasury, as I mentioned, with $387 million, and that is what we need. We do not budget with any fat; we budget as thinly as possible. We are an 83-percent organization in terms of the amount of personnel-related funds in our budget.

When you have 17 percent and must absorb $14.8 million for FERS and the pay raise, it is extremely difficult. We have had tough going for the last couple of years.

We had the Gramm-Rudman-Hollings—I understand the budgetary implications, but we are not in a discretionary kind of business. We are in a business that we are at the beckon call of the people we protect, and we must respond, and sometimes it costs a lot of money.

So when we get presented with a bill for United Nations protection for about $7 million and we cannot submit for a supplemental, we are in deep trouble. We ordered few cars in 1986 and we cut back every possible way we could.

Our organization would be impaired if we were held at the 1987 level. We would not be able to do the 1988 campaign, and I would have to come up and testify regarding that issue.

Senator DOMENICI. I think you ought to put those down in terms of the freeze.

Mr. SIMPSON. Yes, sir.

[The information follows:]

Senator, before directly responding to your question, let me state that the Secret Service recognizes the OMB's role is to recommend respective agency funding levels. Further, we understand that the proposed budget for the Secret Service, now before you, was arrived at allowing for the needs of the entire Federal Government. Last, although I appreciate the opportunity to express my opinion as to the necessary funding levels for the Secret Service, I will recognize that the responsibility for recommending and setting these levels are outside our area of responsibility.

The Service feels that the $387 million approved by Treasury and forwarded to OMB is realistic. The additional resources would fund FERS, the pay raise, inflationary costs, and provide some additional personnel and technological resources.

BIENNIAL BUDGET

Senator DOMENICI. Let me give you my last question and, Mr. Chairman, I am going to attempt to ask every subcommittee chairman, if I am not there, if they would ask this question for me. I think you might be interested in it.

We have been hearing calls for budgetary reform. You know, some people want a 2-year budget; some people want to do away with the budget; some people want to do away with appropriations.

I have suggested that we ought to have 2-year budgets and 2-year appropriations. Senator Bellmon, as he left this place, was very astute; he said why do you not have one year to budget money and one year to pass laws? There is nothing in that Constitution that says we have to go through this exercise every year. So I have got a bill to try to get somebody to think about that.

So, having said that, I am going to ask every department four questions, and I am just going to tick them off and I will leave them at your discretion. Some, you might want answer yes or no; some, you might want to take home and talk about. It is all right with me.

Would your department or agency favor a biennial budget process? I am speaking of appropriations now.

Mr. SIMPSON. Yes.

Senator DOMENICI. What benefits would your agency achieve in that cycle, second? Approximately what portion of your annual appropriation request would you consider more or less a repetition of the previous year's submission?

What difficulties do you foresee in preparing a 2-year appropriation request, and if you oppose that, could you give us some of your reasons?

Now, Mr. Chairman, I would leave that up to you. We do not want to spend all afternoon on this. Can I just submit it and have him answer it? Is that fair enough?

Senator DECONCINI. Why do we not do that, Mr. Director?

Mr. SIMPSON. That is fine with me, Senator.

[The information follows:]

After reviewing the proposed legislation for a biennial budget, the Secret Service has an overall favorable reaction to this budget revision. The major benefits the Service would realize are the smooth transition into the operating budget without having to realign our priorities as a result of a continuing resolution. Further, it would enhance our ability to fully meet our major program enhancements which oftentimes overlap over more than 1 fiscal year, resulting in the delay of major projects until additional funding can be obtained in the following fiscal year.

During the past 5 years approximately 87 percent of our annual appropriation has remained in the base for each fiscal year. In addition our inflationary increases have averaged approximately 7 percent of our budget and should also be considered an additional recurring portion of our annual budget request.

The major difficulty the Service foresees is any rigid limit that may be set on preparing estimates for a 2-year budget cycle. As a result of our protective mandates the Service must have flexibility to change and modify our submissions during the 2-year cycle. There are numerous unplanned protective events which are not initially included in our budget and which consequently require additional funds during each fiscal year. This will be further compounded if the Service was forced to operate under the 2-year appropriation without sufficient leverage to receive additional funding. Also, the Service feels there should be a provision in the proposed legislation for adjusting the inflationary costs since these rates change annually and a biennial budget may result in inadequate estimates.

BIENNIAL BUDGET RAMIFICATIONS

Mr. SIMPSON. I can give you some quick responses. Yes; I would like to see it done. Second, it would give us an opportunity for better planning. Third, I cannot give you the exact figures but we will give you that for the record.

Finally, I do not know all of the ramifications of what a biennial budget might encompass. It might work if we were allowed to have some flexibility in there; if we came before this committee with a budget, for example, of $400 million for 1988, what would the ramifications be on the following year?

For instance, if there is something that came up that we were not expecting, would we have the flexibility to come back and plead our case? That type of information needs to be clarified.

Senator DOMENICI. Well, I think the question that we asked, to try to put it somewhat into perspective, is approximately what proportion of your annual request would you consider simply a repetition of the previous year's submission. I think that is a very interesting thing as we go through all the budget submissions.

If the percentage is as high as I think, it makes the case for it, with some supplemental authority from time to time for the kinds of things you spoke of. But if you would answer those, I would appreciate it.

Thank you very much, Mr. Chairman.

Mr. SIMPSON. Thank you, sir.

ROWLEY TRAINING CENTER

Senator DECONCINI. Senator Mikulski.

Senator MIKULSKI. Mr. Chairman, I just want to focus on one area that perhaps was not covered in the testimony. We are very proud of the fact that the Rowley Training Center is in Beltsville.

Mr. SIMPSON. We are, too, Senator.

Senator MIKULSKI. We consider it an honor to have you there, and I know that you have been undertaking a significant construction and improvement effort at the center.

Mr. SIMPSON. Yes, ma'am.

Senator MIKULSKI. I would like to know what is the status of that project. How is your funding for it? What additional funds do you need, and are they included in this budget?

Mr. SIMPSON. It is not in this budget. It was cut out in the budgetary process. We need $6.5 million to conclude the project. We have finished two phases. We are in the process of letting contracts on a third phase.

The fourth phase is in the planning stages and we are waiting for the completion of some architectural drawings. We hope to have the appropriation that was given to us by this committee and the House committee in 1986 and 1987 obligated by the end of this fiscal year. It will take another $6.5 million to conclude the entire project at the Rowley Center.

Senator MIKULSKI. But for $6 million we will have a totally modernized, renovated, contemporary——

Mr. SIMPSON. Yes, ma'am, $6.5 million is required for completion of the project.

Senator MIKULSKI. Six-and-a-half million dollars. We will see if we can find it.

Mr. SIMPSON. Thank you very much, Senator; I appreciate that immensely.

Senator MIKULSKI. But I will not trade it for the Pope's visit. [Laughter.]

Mr. SIMPSON. Nor will I.

Senator MIKULSKI. Thank you.

Mr. SIMPSON. Thank you, Senator.

Senator DOMENICI [presiding]. Senator D'Amato.

INSUFFICIENT FUNDS

Senator D'AMATO. I am wondering if, on the Service's budget request for $364 million, if, really, given the Presidential campaign, and you have touched on it, you are going to have sufficient funds.

Mr. Director, my concern is that, of the additional $41 million requested, $24 million is set aside for the Presidential campaign. I am wondering if that $24 million is going to be sufficient.

Mr. SIMPSON. Actually, Senator, we spent $20.8 million in fiscal year 1984. Given the inflation from fiscal year 1984 to the present time, the $20.8 million would equate to around $23.6 million in 1988 dolars.

We have 13 candidates in the budget request, and we may have some difficulties making ends meet on the amount of money that was approved for the campaign.

Senator D'AMATO. Let us take for argument's sake that we find that the funds are sufficient for the campaign. You would be left with a $17 million increase for the other needs in the Service, $17 million over and above your budget for last year, is that correct?

Mr. SIMPSON. Yes, sir.

Senator D'AMATO. Increased costs due to the new retirement system are estimated to be about $12 million.

Mr. SIMPSON. Actually, about $18 million, in fiscal year 1988.

Senator D'AMATO. Now, you have got $5 million, and I wonder what kind of arithmetic says you can take that $5 million and cover all of the other cost factors that you have, including the 3-percent pay raise. You cannot do it, can you?

SUPPLEMENTAL REQUEST

Mr. SIMPSON. I do not think so, sir. Also, in fiscal year 1987 we are going to request a supplemental for funds for FERS, for the pay raise, and for the Pope's visit.

Senator D'AMATO. So it goes well beyond just the visit of the Pope?

Mr. SIMPSON. Oh, yes, sir.

Senator D'AMATO. That is one reason for putting forth x number of dollars to cover that particular visit.

Mr. SIMPSON. Right.

Senator D'AMATO. You really find yourself in the position that unless you receive substantially more dollars that the Service is going to be impaired with respect to performance levels. Yours is a situation where I think you testified 83 or 87——

Mr. SIMPSON. About 83 percent, sir.

Senator D'AMATO. Eighty-three percent of the dollars are personnel?

Mr. SIMPSON. Yes, sir; personnel compensation, travel, rents, and utilities are included in that percentage.

Senator D'AMATO. And so, therefore, that additional supplemental, in order to maintain, Mr. Chairman, the current level, is going to have to be honored. Otherwise, you then suffer a diminution in the number of employees that you have.

Mr. SIMPSON. That is something, Senator D'Amato, that we as an agency cannot afford, very frankly. Our people work an extraordinary amount of overtime. We ask them to do things that most people would refuse.

We received only 25 percent in fiscal year 1987 for required increases to maintain current levels. You just cannot keep absorbing inflation costs before, sooner or later, you are going to have to pay the piper.

ADDITIONAL COMMENTS

Senator D'AMATO. Well, I think that is an important factor that should be known and I just wanted to bring it out for the record. I think you do a tremendous job and you have got some tremendously dedicated people, but you can only live on dedication for so long.

Mr. SIMPSON. Right.

Senator D'AMATO. You cannot continue to tax the Service the way it has been, and a number of the other services as well, I might mention, DEA, et cetera, who also have that line being stretched pretty tightly.

Mr. SIMPSON. Afine organization, Senator.

Senator D'AMATO. Mr. Chairman, I have several other questions which I would like to submit for the record and I have no further questions of Mr. Simpson.

Mr. SIMPSON. Thank you, Senator.

Senator DOMENICI. I assume they will be submitted.

What is the chairman's pleasure now?

Mr. MILLS. He will be back in just 1 minute. He just stepped outside for a moment. Did you have any more questions?

Senator DOMENICI. No; I do not. Let me do this, though. If you would communicate to the chairman that with reference to the question on the 2-year cycle, I have it prepared for each of the departments that are before us and I would ask that it be submitted to each of them.

I have another appropriations hearings, so I will go to it and Becky will submit the written questions that are not asked. If you would ask them for me, I would appreciate it.

Mr. MILLS. Yes, sir; we will take care of it.

Senator DOMENICI. I did want to be here for the Enforcement Training Center, but I guess I will miss it. He is not available, is he, the boss?

Mr. SIMPSON. Yes, Senator.

Mr. KEATING. He is available, Senator. He is probably outdoors.

Senator DOMENICI. I have met him and talked with him, but I will see him later.

Mr. MILLS. Did you have some more questions?

Senator D'AMATO. Not of the Service, no.

Mr. MILLS. OK, sir.

Senator D'AMATO. Do you want to proceed?

Mr. MILLS. Mr. Keating is available—he is the Assistant Secretary for Enforcement—if you have some other questions.

Senator D'AMATO. Well, do you want to get into the Bureau of Alcohol, Tobacco and Firearms?

Mr. KEATING. They are available now, Senator, whenever the chairman wishes to take that up. We have the Director here, as well as his senior staff.

ADDITIONAL COMMITTEE QUESTIONS

Mr. MILLS. Well, why do we not do that? We may have some more questions of the Secret Service.

Mr. SIMPSON. Thank you very much, sir. Thank you, Senator.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

Additional Committee Questions

Pay Raise and FERS for Fiscal Year 1987

Senator DeConcini: Mr. Simpson, I understand that OMB denied the Secret Service any pay raise or Federal Employee Retirement System (FERS) supplemental funding in the current fiscal year. This amounts to $4.1 million for pay; $5.4 million for FERS; and another $11.6 million for inflationary increases that the Secret Service will have to absorb out of other programs. Obviously, if your relatively small agency is forced to "eat" these uncontrollable costs that must be paid, you are going to have to set aside other parts of your mission in order to pay them. Tell us in some detail, what the effect on Fiscal Year 1987 Secret Service operations will be if you do not receive any pay; FERS; or inflationary supplemental relief in Fiscal Year 1987.

Mr. Simpson: The estimated cost of the pay raise is $4,089,000 in Fiscal Year 1987. Also, the additional cost associated with FERS is $5,387,000 in Fiscal Year 1987. For the Service to continue vital programs in the areas of computer modernization, mandatory technical security items, preparations for the 1988 Campaign, and full staffing, it will be necessary for the Service to identify items in these, and other, programs that can be delayed or reduced. Similarly, preparations for the 1988 Campaign will begin stretching Secret Service resources in Fiscal Year 1987. Absorbing these increases immediately prior to a campaign year must be balanced with readiness which is of utmost importance. In 1988, it will be necessary for the Service to borrow manpower from other agencies and work extraordinary amounts of overtime to meet campaign work load requirements. Therefore, an appropriate level of resources going into the campaign is particularly important.

Pay Raise and FERS for Fiscal Year 1988

Senator DeConcini: In reading your budget justifications, it appears that on the one hand, OMB has given you the full cost of your pay and FERS for Fiscal Year 1988 -- about $25 million. Yet, on the other hand, OMB is forcing, the Secret Service to absorb $14.8 million of these costs in Fiscal Year 1988. It sounds to me like the classic old case of "thou givest and thou taketh away". What will be the effect on your Fiscal Year 1988 operations as a result of this OMB move to make you absorb more than half of your FERS and pay requirements for next year? Be specific and tell us what you will have to give up.

Mr. Simpson: As a result of the budget level established by OMB, in response to the Treasury Department submission, total monies were provided to the Secret Service from which FERS, the pay raise, inflationary costs, and program increases were to be funded. Given the levels provided, the Service found it necessary to re-allocate some funding into other program areas. To accomplish this re-allocation the Service will reduce other, lesser priority programs.

Candidate Nominee Protection 1988 vs. 1984

Senator DeConcini: In Fiscal Year 1984, the Secret Service budgeted $31,369,000 for Candidate/Nominee protection. This year, with the prospect of as many as 16 candidates, the Secret Service has been given $29.9 million by the President to handle the protective work load in the Presidential campaign. Two prospective nominees, Governor Cuomo and Senator Nunn, have apparently dropped out of the running so your work load may drop somewhat, but will your budget request be adequate to cover the cost of what is sure to be a very crowded candidate/nominee protective mission in 1987 and in 1988 leading up to the election?

Mr. Simpson: The Secret Service is closely monitoring the growing field of potential candidates for the Presidential nomination. The current budget request is submitted with the expectation of 13 primary and 3 general election candidates. If further events necessitate, and funding proves to be inadequate, a supplemental request will be considered, with appropriate offsets elsewhere, and the Committee will be notified.

Senator DeConcini: What is the mechanism for candidates/nominees to receive Secret Service protection — how much of it is really necessary in light of threats and how much of it is prestige, status, and the like?

Mr. Simpson: Public Law 90-331 dated June 6, 1968 places upon the Secretary of the Treasury responsibility for determining, from time to time, after consultation with an advisory committee, those persons who qualify as a major Presidential and Vice Presidential candidate and thus, should be furnished with United States Secret Service protection, unless declined. The Committee consists of the majority leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives and one additional member to be selected by the members of such committee. Once the Committee makes its determination, the Service initiates the mandated protection. The level of protection provided is based on available intelligence, threat levels, protective environment and other factors bearing on the safety of the candidate.

Senator DeConcini: Has this Administration or past Administrations ever considered legislation that would call for at least partial reimbursement by candidates for Secret Service protection? If not, why not?

Mr. Simpson: This Service has never participated in the submission of any legislation concerning payment for protection by candidates. We understand that in the past, Congressman Miller (Ohio) who was at one time on our Appropriations Committee, introduced legislation that would require candidates not to charge for Secret Service seats on their aircraft.

Reimbursement by State Department for Protective Services

Senator DeConcini: In your statement, you say that "providing a secure environment for our foreign visitors continues to be one of the Service's highest priorities". You note that a year ago, the President placed new responsibilities on the Service

to protect accompanying spouses of visiting heads of state. The State Department is supposed to reimburse the Service for these new services, under the terms of the National Security Decision Directive and the Anti-Terrorism Act. What is the status of your reimbursement from the State Department for these services and can you tell us how much has been budgeted by the State Department to reimburse you for these services in Fiscal Year 1988? Why won't State pay the bills for these services?

Mr. Simpson: Protection of foreign dignitary spouses became a Secret Service protective responsibility on May 1, 1986 per National Security Decision Directive 207. State Department was required to reimburse the Service for this protection in Fiscal Year 1986 and through the end of Fiscal Year 1987, as dictated by Public Law 99-399 (Section 411, Anti-Terrorism Act). At this point, State Department has not reimbursed the Service's Fiscal Year 1986 and 1987 bills for this program. A disagreement over the interpretation of Section 411 exists. While the Secret Service believes it should be reimbursed for all costs associated with dignitary spouse protection, the State Department feels it should only be billed for incremental expenses. This program will be funded from the Secret Service Fiscal Year 1988 budget request of $1,012,000. We are not aware of how much State Department has received through the budget process for this program.

International Center Project

Senator DeConcini: I understand that an International Center is planned, featuring up to 22 chanceries to relocate to one concentrated area on 26 acres of land in upper Northwest Washington, D.C. What will be the budgetary impact on the Secret Service as a result of your protective mission at the International Center? Tell us about both staff, the type of staff, and the dollars that will be required in Fiscal Years 1987 and 1988?

Mr. Simpson: Presently, the Secret Service has fixed post coverage at the International Center, operating on a 24-hour basis. The cost associated with this preliminary level of protection is $110,000 annually. Protective requirements may increase as more missions open and threat levels are specifically determined. Staffing of motor patrols and foot patrols is expected in conjunction with the transformation of this diplomatic community. At the present time, there are four Foreign Missions at the International Center. They are Israel, Jordan, Bahrain and Kuwait. Five additional countries are in the process of establishing missions at this location which include Ghana, Bangladesh, Qatar, East Germany and Yemen. The remaining thirteen properties have not been identified as of this date. The annualized cost is estimated to be $884,000 and 20 positions.

Senator DeConcini: What are the unique problems protecting the chanceries at the International Center as opposed to other foreign missions throughout the Washington Metropolitan area and the cost differences if they can be quantified?

Mr. Simpson: The International Center is unique in that twenty-two chanceries plan to relocate to one concentrated area covering 26 acres in upper Northwest Washington, D.C. The foreign

missions projected to occupy this center are, by today's intelligence assessments, in a greater security concern category and will require additional fixed posts as well as dedicated security patrols. Although the foreign governments involved may relocate their chanceries to the International Center, the vacated properties may be retained for other diplomatic functions; therefore, retaining "foreign missions" status and qualifying for Secret Service protection.

Senator DeConcini: Has the State Department requested additional Secret Service protection for these International Center missions and if so, is there any provision for reimbursing the Secret Service for this increased protection? After all, the State Department budget does much better than yours in Fiscal Year 1988.

Mr. Simpson: An earlier State Department request to increase protection at International Center was received. Any changes deemed necessary are only made following a review by Secret Service intelligence personnel. While the State Department can request additional protection at embassies, the Secret Service must also agree to any security upgrade. The State Department does not reimburse the Service for any embassy protection even though it may be provided at their request.

New Legislative Language Provisions

Senator DeConcini: You are requesting several language changes in your basic appropriation bill language for Fiscal Year 1988. One of the changes would effectively exempt the Service from limitations on the purchase price of vehicles due to your unique vehicle requirements. But there are other legislative provisions proposed that deal with your Secret Service employees. Could you briefly tell the Committee why these language changes are required in Fiscal 1988 and what, if any, cost implications they may have?

Replacement Vehicles

Mr. Simpson: Through Fiscal Year 1984, the Secret Service had been exempt from price limitations for the purchase of replacement vehicles. However, dollar limitations imposed in Fiscal Year 1985, 1986 and 1987 do not reflect current manufactured prices. The Service is requesting the reinstatement of the appropriation language "without regard to the limitation on purchase price".

The Fiscal Year 1987 appropriation language of other law enforcement agencies, specifically the Federal Bureau of Investigation and the Drug Enforcement Administration, contains language which exempts them from purchase price limitations on replacement vehicles.

It is difficult to acquire a large, sturdy, well built 8-cylinder vehicle for protective and investigative endeavors when there is a stipulation on the base purchase price. The dollar limitation which has been imposed upon the Secret Service has severely impacted both the protective and investigative missions. The

prices of larger automobiles and touring sedans, which are necessary for use in protective movements and motorcades (and only acquired on a selective basis), are significantly greater than the present $9,300 limit.

Advance Payments

In order to efficiently accomplish the mission of the Secret Service, it is necessary to secure hotel accommodations for agents and support technicians in advance of a protective event. Currently, the Secret Service provides a "letter of guarantee" to a lodging establishment, which promises full payment for the rooms reserved, upon actual receipt of the services. This letter is used in lieu of an advance of funds, in compliance with 31 U.S.C. 3324. However, some lodging establishments will not accept a written guarantee in lieu of a cash deposit. This situation arises when lodging is in great demand. The authority to make advance payments in such a situation would facilitate the acquisition of services that are critically necessary to the accomplishment of the Service's protective mission. The Secret Service is, therefore, requesting approval for authorization to make advance payments where necessary, for accommodations secured in conjunction with protective missions.

Behavioral Research Program

The Service has continued to conduct psychological research studies to improve its ability to assess behavior of potentially dangerous subjects in Protective Intelligence cases, and will continue to improve liaison and working relationships with the mental health community as it relates to potentially dangerous subjects.

The phrase "in addition, for the purpose of making grants to conduct behavioral research in support of protective research and operations;" has been added to the proposed FY 88 appropriation language to enable the Secret Service to use more standard administrative mechanisms to support research on violent behavior, as well as other topics related to prevention of assassination and to protective research. This authority will particularly strengthen the behavioral research program of the Secret Service and will enable more research investigators to contribute their expertise in solving critical protective research and operational issues of concern to the Secret Service.

In the 1981 report by the Institute of Medicine (National Academy of Sciences-IOM/NAS), Behavioral Science and the Secret Service: Toward the Prevention of Assassination, the committee explicitly recommended using both contracts and grants as vehicles for supporting both short-term and long-term behavioral sciences research studies. Support of long-term basic research is typically and more easily handled through the grant mechanism which provides:

1. "Up-front" support of funds to establish and complete the research program, e.g., hiring of personnel, purchase and acquisition of equipment, lease of space, travel costs, disposition of equipment used for research, etc.

2. Cross-over of the research project into subsequent fiscal years.

3. Purchase of "ideas", "brainpower", and theory-development.

4. Contractual mechanisms that recognize the uncertainty and direction of outcomes in scientific research.

5. Easier administrative tracking after the grant is awarded.

Exemption from the motor vehicle purchase price limitation is estimated to cost $540,000 annually. However, additional funding has not been requested for this exemption. The remaining legislative language provisions have no cost impact.

FY 1988 Non-Recurring Costs

Senator DeConcini: The President is offsetting your Fiscal Year 1988 requirements in part by disallowing certain costs that are categorized as "non-recurring" in Fiscal Year 1988. For example, he is cutting construction at the Rowley Training Center despite the need to complete two final phases of the project. He is cutting the $5 million provided in the 1986 Drug Bill for voice privacy equipment even though Secret Service is still not 100 percent secure in its communications, and he is cutting, as I mentioned, the counterterrorism program that he deems as non-recurring. All of these together represent savings of $15.9 million -- a large cut in a budget of $364 million. What will be the effect on Secret Service programs if the so-called non-recurring items are not funded in Fiscal Year 1988?

Mr. Simpson: Of the $15,860,000 non-recurred in the budget, $3.7 million shown as a non-recurring cost for the counterterrorism program is actually included in the budget as a requested increase for Fiscal Year 1988.

The additional monies provided by the Congress in Fiscal Year 1987, allowed the Service to accelerate some key programs, as this funding represents one-time costs, and need not occur again in FY 1988.

Building Consolidation

Senator DeConcini: What are the strategic and cost-saving reasons for the Secret Service to consolidate its operations into the 18th and G Street building and to move NSF and other government agencies (NOAA, certain Commerce agencies) into the Silver Spring office complex?

Mr. Simpson: The Secret Service has long recognized the inherent advantages of consolidating our Headquarters activities into a single office location. Close proximity to the White House, Blair House, Treasury building and Executive Office Building is absolutely essential to our protective mission. The Administrative, Inspection, Communications, Technical Security, Data Systems, Procurement, and Management Analysis offices are spread across the city in a number of seperate locations which cause increased expenses and raise threat levels to our facilities. Many functions are therefore duplicated. Shuttle buses are

required to ferry personnel between locations. This arrangement diminishes the productivity, management and effectiveness of nationwide Secret Service activities.

Acquisition of a consolidated building at 1800 G Street will physically bring together administrative and operational functions to:

- enhance production and improve management of all Secret Service activities;
- lessen the time involved in moving mail and personnel between Headquarters offices;
- consolidate mail and, messenger services, copy machines, supply operations, and conference facilities;
- provide a centralized location for emergencey response;
- improve security of personnel and building structure, storage of contraband material, equipment, and sensitive files;
- achieve administrative cost savings.

The need for Secret Service proximity to the White House is critical from a functional standpoint. The Service, as any other Government agency whose offices are dispersed throughout the Washington area would actually benefit by consolidating. Such consolidation will allow the opportunity to merge administrative and operational functions, thereby enhancing productivity and improving management.

Unobligated Balances/1987 into FY 1988

Senator DeConcini: On page one of the budget justification "blue sheets", I notice that you estimate nearly $3.9 million will be available for obligation from prior year appropriations. Can you tell us how this amount of money will be available for obligation in Fiscal Year 1988 -- where did it come from?

Mr. Simpson: The $3.9 million represents the amount that will be obligated in Fiscal Year 1987 from the prior year appropriation. This amount will not be available in Fiscal Year 1988. These monies show up under the FY 1987 column and the Total Changes column, which represents the difference between the Fiscal Years 1987 and 1988.

Increase in Rent Charges

Senator DeConcini: I notice that you are requesting an increase of $3.6 million to cover increases in rent charges. I assume that these are rent increases imposed by GSA.

Mr. Simpson: Rent increases imposed by GSA will cost $2 million. The remaining $1.6 million will fund the Service's Washington Field Office (WFO), which was acquired in June of 1985.

Senator DeConcini: If you are successful in consolidating your space into the 18th and G Street building or elsewhere, will you be able to reduce the amount you need for Fiscal Year 1988 rental increases?

Mr. Simpson: Consolidation at 1800 G Street will not serve to reduce rent costs. In addition to uniting several fractioned Divisions in a single area, consolidation will also allow offices much needed expansion space. Most Headquarters offices have been unable to expand despite the acquisition of new personnel and responsibilities. A 1984 study of Secret Service space requirements by a private firm indicated a severe shortage of office space for most offices at 1800 G Street.

Candidate Protection Funding: Base Estimate

Senator DeConcini: On page SS-11 of the budget justifications it says the Secret Service will fund the remaining Candidate/Nominee requirements by "retaining $5,652,000 of Fiscal Year 1987 campaign funds in the base" for FY 1988, leaving a balance of $24,259,000 in new money to be appropriated for the candidate/nominee protection next year. Does this mean that $5,652,000 was budgeted for, but will not be expended in Fiscal 1987 for candidate/nominee protection, or does it mean that this is your 1987 estimate of what will be required for candidate/nominee protection in the current year?

Mr. Simpson: These funds will be required and expended in Fiscal Year 1987 for communications equipment ($4,763,000), for communications personnel travel ($20,000) and for training costs (Secret Service personnel and Other Treasury support) directly associated with the Campaign ($869,000).

Communications equipment must be acquired and in place prior to the Campaign and the training required to support candidate/nominee details must also be initiated prior to the commencement of the Campaign.

Retention of these funds in the base is required to support the cost of the whole Candidate and Nominee Program in Fiscal Year 1988.

Southwest Border Initiative

Senator DeConcini: Could you tell us what, if any role, Secret Service is playing in Operation Alliance?

Mr. Simpson: The Secret Service is involved in Operation Alliance, also known as the Southwest Border Initiative, in two ways.

First, we are active participants in ongoing Mexican - American law enforcement conferences held periodically in San Diego, Phoenix, El Paso and San Antonio.

Second, we are proposing to establish a full-time Secret Service agent position in the El Paso Intelligence Center (EPIC). EPIC was created in 1974 to collect, process, and disseminate information regarding illicit drug trafficking. It is staffed by personnel of nine participating Federal agencies, including all major law enforcement agencies. EPIC supports, through the intelligence process, programs of interest to its participating agencies.

Questions Submitted by Senator Pete V. Domenici

Presidential Candidate/Nominee Protection

Senator Domenici: A total of $29.9 million is included in your Fiscal Year 1988 request for Presidential candidate/nominee protection. The budget justification indicates that the required funding assumes 13 candidates, three nominee and spouse details, and other related costs. Is that correct?

Mr. Simpson: Yes, that is correct.

Senator Domenici: How much did it cost for candidate/nominee protection in the last Presidential Campaign? How many candidates/nominees did that amount cover? Given the cost to the Service of the last campaign, is your Fiscal Year 1988 request for Campaign '88 sufficient?

Mr. Simpson: Campaign costs for 1984 are as follows:

FY 1983	FY 1984	FY 1985
$2,522,260	$20,890,270	$5,164,920

Total	Total Protected	
$28,577,450	Candidates	- 7
	Additional Nominees	- 1
	Other	- 1
		9

Senator Domenici: How many other Treasury agents (OTA's) do you plan to detail for coverage of the Campaign? Please be specific as to the agency and number of agents being requested. Of the $29.9 million now budgeted for the Campaign, how much is for reimbursement to other Treasury agencies for agents detailed?

Mr. Simpson: Requests made of other Treasury agencies for support of the U. S. Secret Service during the 1988 Presidential campaign are as follows:

ATF - On February 24, 1987, ATF was requested to provide 750 agents for campaign training. Of this 750, it was further requested that 600 be designated for 21-day campaign assignments for "Jump Teams", "Residence Security" and "Candidate Details".

Customs - On February 24, 1987, Customs was requested to provide 750 agents for campaign training. Of this 750, it was further requested that 400 be designated for 21-day campaign assignments, as was the case with ATF.

IRS - On February 24, 1987, IRS was requested to provide 750 agents for campaign training. Of this 750, it was further requested that 100 be designated for 21-day campaign assignments as was the case with ATF and Customs.

A total of $7,667,000 is being budgeted to reimburse the Treasury Department for other Treasury agents.

Senator Domenici: If the number of candidates/nominees to be protected exceeds the number planned, what impact will it have on the Service? Does the Service have any back-stop plan if this proves to be the case?

Mr. Simpson: If funding proves to be inadequate, a supplemental request for funding with appropriate offsets elsewhere will be considered.

FY 1987 Pay and Retirement Costs

Senator Domenici: What are the amounts of pay and retirement costs you must absorb in Fiscal Year 1987? What impact will this have on the Service?

Mr. Simpson: The Secret Service will absorb $5,387,000 for FERS and $4,089,000 for the pay increase in Fiscal Year 1987. Given these mandatory costs, the Service will delay or reduce other, lower priority programs.

FY 1988 Pay and Retirement Costs

Senator Domenici: Are pay and retirement costs fully funded in your Fiscal Year 1988 request? If not, what amount of these costs are you being required to absorb?

Mr. Simpson: The Secret Service was provided sufficent funds to cover pay and FERS costs in 1988, but has reallocated some funding into other program areas. This funding reallocation will require some funding absorbtion in other lower-priority programs.

James J. Rowley Secret Service Training Center (Beltsville)

Senator Domenici: What is the status of construction of the James Rowley Training Center in Beltsville, Maryland?

Mr. Simpson: In Fiscal Year 1987, Congress appropriated $6 million for the construction of the Center's development. In Fiscal Year 1986, $5 million was appropriated, but (under Gramm-Rudman-Hollings) was cut to $4.785 million. Currently, the following projects are underway:

- Project I/IV is comprised of a computer facility, a water tower, a simulated airport apron, a driving course, and vehicle storage building. Award of contract for construction is expected in June. This accounts for the $4.785 million.

- Project III is the Tactical Response Training Area, a simulated urban environment where protective techniques are learned and practiced. A contract for construction is anticipated by the end of this fiscal year. This accounts for the $6 million.

Senator Domenici: Will all of the additional $6 million in construction funds appropriated in Fiscal Year 1987 be obligated by the end of the fiscal year?

Mr. Simpson: It is our intent to obligate this fund by the end of Fiscal Year 1987 since it was designated as a single fiscal year fund.

Senator Domenici: Which phases of the project are not yet funded? What level of funding is necessary to complete the project?

Mr. Simpson: Project II for development of a Perimeter Road Network and Project V for development of the Physical Training Building are not yet funded. We expect to develop final plans for these projects during 1987. We estimate that funds in the amount of $6.5 million are necessary to conclude the entire project at Rowley Training Center.

Senator Domenici: What training does the Secret Service do at the Federal Law Enforcement Training Center (FLETC)? What training is done at Beltsville?

Mr. Simpson: The Secret Service has two Special Agents and two Uniformed Division officers assigned at FLETC as instructors. As part of FLETC's State and local program, a Protective Operations Briefing is given twice a year by the Secret Service, directed at police officials throughout the country. A nine day questioned document course is also presented at FLETC for these officials.

The Secret Service sends new Special Agent recruits to FLETC for eight weeks of generic criminal investigation training. The Uniformed Division also sends new recruits there for an eight week basic police officer course.

After completing basic training at FLETC, new Special Agents return to Washington for seven additional weeks of specialized training, conducted at our training office in downtown Washington. Many hours are devoted to hands-on simulation training at the Rowley Training Center (RTC). The Center's proximity to Washington is invaluable. New Uniformed Division officers receive nine weeks specialized protection training at the center.

Not only is Rowley used for the training of new personnel, all outdoor firearms training for Secret Service in the Washington area is conducted there.

The Center is designed for specialized protection training, not duplicated elsewhere. Examples of this type of training are as follows:

1. Canine training for Secret Service dogs used to detect explosives.

2. The protective operations driving course is given to weapon carrying personnel who drive protectees.

3. Counter-Sniper training for Uniformed Division technicians is a vital part of the protective umbrella for the President and Vice President.

4. Counter Assault Team (CAT) training is conducted. These specially trained counter-terrorist teams give extra support to the protection divisions.

5. Attack on protectee (AOP) exercises are held. These simulation exercises duplicate past attacks on VIPS throughout the world and anticipate possible future attempts while preparing personnel to respond in emergency situations.

Protection of Foreign Dignitary Spouses

Protection of Foreign Dignitary Spouses

Senator Domenici: What funds and positions are budgeted in Fiscal Year 1988 for dignitary spouse protection?

Mr. Simpson: Funds and positions for FY 1988 Foreign Dignitary Spouse protection number $1,012,000 and 11 Special Agents, respectively.

Senator Domenici: What is the current status of the reimbursable agreement with the Department of State relative to spouse protection through the end of fiscal year 1987? Has the State Department reimbursed the Service for its Fiscal Year 1986 costs? What is the amount of that reimbursement?

Mr. Simpson: Protection of foreign dignitary spouses became a Secret Service protective responsibility on May 1, 1986 per National Security Decision Directive 207. State Department was required to reimburse the Service for this protection in Fiscal Year 1986 and through the end of Fiscal Year 1987, as dictated by Public Law 99-399 (Section 411, Anti-Terrorism Act). At this point, State Department has not reimbursed the Service's Fiscal Year 1986 and 1987 bills for this program. A disagreement over the interpretation of Section 411 exists. While the Secret Service believes it should be reimbursed for all costs associated with dignitary spouse protection, the State Department feels it should only be billed for incremental expenses. The Department of State has not reimbursed the Secret Service $289,179 for FY 1986 protection of foreign dignitary spouses.

International Center

Senator Domenici: What funds and positions are budgeted in fiscal year 1988 for securing missions located at the International Center?

Mr. Simpson: No funding is provided for this purpose.

Senator Domenici: What level of protection will you be providing at the International Center?

Mr. Simpson: The International Center represents a high threat environment, requiring considerable protection from the Secret Service's Uniformed Division. Coverage will take place on a 24-hour per day basis and include motor patrols and foot patrols. These requirements will change per the constant evaluation of threat levels.

Senator Domenici: What considerations are being given to possible terrorist threats against missions planned for the International Center?

Mr. Simpson: The State Department, in conjunction with the Secret Service, assesses security concerns of the diplomatic community on a daily basis. Although specific coverages will be addressed as the various foreign missions relocate to the complex, security of the complex which covers twenty-six acres, is a high priority as evidenced by certain security features being designed in the overall State Department plans. The State Department expects Uniformed Division presence at the complex in view of its potential for being the target of a terrorist assault.

Questions Submitted by Senator Alfonse M. D'Amato

The 1988 Presidential Campaign

Senator D'Amato: The proposed budget states that the cost of protecting 13 Presidential Candidates will be about $30 million. How is that consistent with the fact that in 1984 there were only 7 candidates, and the cost of protecting them was $23 million?

Mr. Simpson: The actual cost of the Fiscal Year 1984 portion of the 1984 Campaign was $20,890,000 with 7 candidates, which equates to $23,624,000 in 1988 dollars (based on annual CPI increases). The $29,911,000 is budgeted in Fiscal Year 1988 for 13 primary and 3 general election candidates.

Funding Requirements

Senator D'Amato: Assuming the $24 million increase for Campaign security is sufficient, and the $41 million budget increase in 1988, the Service is left with $17 million that becomes available for other needs. The new retirement system will cost approximately $12 million. How will the remaining $5 million enable the Secret Service to maintain current performance levels, keep up with inflation, and cover the cost of the recent three percent pay raise?

Mr. Simpson: The inflationary costs excluding FERS and the pay raise will require $15 million. The pay increase will cost an additional $6.6 million and FERS will require $18.3 million. To cover these mandatory costs, the Service will reduce other lesser priority programs.

Additional Positions

Senator D'Amato: Is it true that the Secret Service really believes it needs about 227 additional personnel than the budget proposal requests? I believe the breakdown is as follows:

75 Uniformed Division positions
52 Special Agents
100 Support Personnel

Uniformed Division

Mr. Simpson: The budget request submitted to the Congress provides for additional positions of 11 Special Agents, 25 Uniformed Division Officers, and 12 Support personnel.

The budget of $387 million approved by Treasury, and forwarded to OMB, provided for additional officer, Special Agent, and support positions. These positions would be allocated to increasing work volume.

Since the early 1980's, the Uniformed Division has attempted to perform increasing work volume in mandated responsibilities through the use of overtime.

Continuing to use overtime to take the place of actual personnel is fast becoming a costly program unto itself, costing the Secret Service $4,245,720 in 1986.

Special Agents are also devoted to new investigative jurisdictions involving fraud in addition to protective responsibilities resulting from increased terrorist-related intelligence investigations. Concurrently, the demand on field agents to support the Service's protective mission is also increasing in conjunction with physical protection functions.

The new investigative jurisdictions have also generated the need for clerical staff to process associated administrative reports. Adequate technical staff is also critical to fully implement the new Information Systems planned for Fiscal Year 1988.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

STATEMENT OF STEPHEN E. HIGGINS, DIRECTOR

ACCOMPANIED BY:

WILLIAM T. DRAKE, ASSOCIATE DIRECTOR, COMPLIANCE OPERATIONS
PHILLIP C. MCGUIRE, ASSOCIATE DIRECTOR, LAW ENFORCEMENT
CHESTER C. BRYANT, COMPTROLLER
PAUL R. GENTILLE, FINANCIAL MANAGER

INTRODUCTION OF ASSOCIATES

Senator D'AMATO [presiding]. Thank you.

Mr. Higgins, if you would like to summarize your statement and touch the high points and the low points, we would be pleased to hear you.

Mr. HIGGINS. Well, first, I would like to say that we are happy to have the new members of the committee and see such well-qualified people coming forth as Senators Mikulski, D'Amato, and Domenici, and we hope we will be able to establish the same fine relationship that we have had with the previous members.

I would like to introduce very quickly the staff that is here with me. To my immediate right is Phil McGuire, who is Deputy Director and also the head of our law enforcement operation. To his right is Bill Drake, who is Deputy Director and head of our compliance operations. To his right is Chet Bryant, who is our Comptroller, and then to his right is Paul Gentille, who is our financial manager.

My staff and I appreciate the opportunity to appear before you in support of our fiscal year 1988 appropriation. In our view, the amounts requested are reasonable and justifiable, considering the many competing demands for scarce departmental resources.

PREPARED STATEMENT

From past experience, I know this committee and its very competent staff have a lot of important questions to ask in a very limited amount of time. Accordingly, I would simply like to introduce a lengthy narrative statement for the record and then be prepared to respond to your questions.

[The statement follows:]

STATEMENT OF STEPHEN E. HIGGINS

GENERAL STATEMENT

Mr. Chairman and Members of the Subcommittee, it is a privilege to appear before you in support of the FY 1988 budget request for the Bureau of Alcohol, Tobacco and Firearms. Accompanying me are my colleagues Mr. William Drake, Associate Director, Compliance Operations; Mr. Phillip McGuire, Associate Director, Law Enforcement; Mr. Chester Bryant, Comptroller; and Mr. Paul Gentille, Financial Manager.

FY 1987 Proposed Rescission

Before I discuss the FY 1988 request and the Bureau's accomplishments, it should be noted that the proposed authorized level for FY 1987 includes a budget rescission of $15,000,000 and 301 staffyears from the Continuing Resolution appropriation of $193,463,000 and 3,151 staffyears, for a revised request of $178,463,000 and 2,850 staffyears. To achieve these savings, the Bureau would reduce the following program areas: Compliance Operations Alcohol Program - $4,204,000 and 99 staffyears; Law Enforcement Tobacco Program - $4,469,000 and 66 staffyears; and Law Enforcement Firearms Program - $6,327,000 and 136 staffyears.

FY 1988 Budget Summary

Our FY 1988 budget request is $197,226,000 and 2,846 staffyears, which represents a net increase of $18,763,000 and a decrease of 4 staffyears compared to the revised requested level for FY 1987. This request includes a program increase of $3,478,000 and 7 staffyears, maintaining current level increases of $19,590,000 offset by a reduction of $4,305,000 and 11 staffyears for nonrecurring costs and savings. I would like to take this opportunity to report to you on several management initiatives.

MANAGEMENT EFFICIENCIES

Administrative

In addition to still realizing savings from the centralization of all administrative support in FY 1985, the Bureau continued to make substantial progress in improving its administrative processes during FY

1986. We plan to explore further opportunities to reduce overhead expenses and enhance productivity through improved work methodologies, effective training, better flow and exchange of information, and greater emphasis on compliance with OMB Circulars A-123 (Internal Control Systems) and A-76 (Performance of Commercial Activities).

Our most noteworthy management initiative in FY 1986 was the installation of the IBM 4341 mainframe computer which was obtained from the U.S. Customs Service. This system will be the nucleus for creating better Bureau-wide flow and exchange of information and more efficient management of sensitive databases. An in-house Modernization Staff was established to devote full-time attention to this effort. Accomplishments to date include conversion of our firearms and licensing systems from time-sharing facilities to the mainframe and interfacing it with existing ADP hardware and office automation systems. We are also in the early stages of designing backup systems for automated databases which are critical to our mission. In addition, achievements have been made in the area of office automation such as computerization of our property management and procurement tracking systems. We hope to have an automated directives system fully operational by June 1987. Other applications such as space, paperwork, and facilities management are slated for automation by the end of FY 1988.

An Information Resources Management Council recently was established to make certain that computer development and office automation efforts are cost-effective and directly related to the Bureau's missions. The Council is the central source for planning, policy formulation, statistical information, and initiation of special studies. In regard to the latter, the Bureau is in the process of conducting applications and capacity planning studies. The purpose of these studies is to determine current problems, future requirements and definable, cost-justified solutions for effectively utilizing ATF information systems. Our goal is to develop a state-of-the-art, integrated technological support system to enhance productivity of all Bureau activities. The system will

constitute a unified network of management information, mission-related ADP support, telecommunications, and office automation capabilities.

Besides the aforementioned initiatives and accomplishments, ATF is fully committed to realizing productivity gains in other areas. For example, we have created task forces to study improvement of employee health, drug screening, and methods to reinstate recipients of workmen's compensation back into the workforce as productive employees.

Furthermore, the Bureau has identified several program functions for inclusion in the government-wide Productivity Improvement Program. We are acutely aware that training is an important element in improving overall productivity; therefore, the Bureau will continue to place special emphasis on skilled-based and supervisory/managerial training. Two noteworthy training initiatives, which should be fully implemented by Spring 1987, are the establishment of a personal computer laboratory and the development of computer-based training in our compliance program.

Another commitment is to increase the physical security of our offices. By the very nature of the laws we enforce (firearms, explosives and arson), ATF continually encounters violence-prone individuals and terrorist groups who are not above violating laws to achieve their goals. Therefore, we at ATF are very much concerned about providing a safe and secure workplace for employees and other individuals who contribute to the obtainment of our mission. In this regard, some constructural and procedural changes have been made. We are currently exploring the feasibility of instituting a visible identification system instead of just requiring pocket ID's. Completion of major security improvements, however, will extend into FY 1988.

In regard to compliance with OMB Circular A-123, we are in the process of ensuring that effective internal controls are in place for property management, travel, procurement, contracts audit, and financial reporting systems. An Internal Review Staff was established to conduct audits and follow-up reviews of the aforementioned accounting activities,

the imprest fund, and ATF's adherence to the Prompt Payment Act. Additionally, the staff will perform reviews to determine compliance with Section 4 of the Federal Managers' Financial Integrity Act.

Likewise, in terms of compliance with the A-76 Program, we are investigating the feasibility and cost-effectiveness of leasing our motor vehicle fleet instead of owning and maintaining it. Further, the contract to perform our forms and publications distribution operations was reviewed and awarded to the National Industries for the Severely Handicapped under the auspices of the Wagner-Jarvis-O'Day Act. Other accomplishments include completing management studies of our Laboratory Services and ADP/Telecommunications functions. As the Bureau heavily relies on private sector services to minimize in-house staffing requirements in other areas like photo-processing, data entry and management consulting, and as most of our functions are intimately related to law enforcement and tax collection activities, we do not anticipate any further reductions in FTE's as a result of the A-76 studies underway.

It is believed that the culmination of all the aforementioned administrative management initiatives will result in higher productivity, reduced overhead expenses, assured integrity of our administrative and accounting systems, and a secure workplace for employees and others who contribute to the obtainment of the Bureau's mission.

Compliance Operations

Compliance Operations is making management improvements by automating high-volume operations, consolidating functions that can be run more efficiently at one location, identifying and acting on changes in industry and population trends, and providing equipment and training to its employees so that they can more effectively enforce Federal laws and regulations.

Each year the number of licensees and permittees regulated by ATF increases. For example, in 1980 the number of firearms licensees was 179,000; by 1986, that population had grown to 267,000, and we expect that number to increase to 285,000 by the end of 1987. To handle the

increasing number of firearms and explosives licensees, we have consolidated three of our seven regional licensing functions into one highly automated location. This consolidation is enabling us to more effectively respond to inquiries from law enforcement officials, and act upon license applications more efficiently. In FY 1987, we will determine if further consolidation is warranted.

Another improvement is the "lockbox" for firearms and explosives application fees which ATF implemented. No problems have been encountered since it has been in place. Not only are we saving over $100,000 a year in processing costs, but combined with the consolidation, we are able to issue firearms and explosives licenses more expeditiously.

ATF has implemented an agreement entered into with U.S. Customs Service by which ATF auditors and inspectors will perform audits at U.S. Customs bonded warehouses which are co-located with facilities regulated by ATF. The agreement improves the overall efficiency of the Bureau, provides us with another tool in which to protect public safety, and benefits industry because its representatives and operations are disrupted less frequently. In a somewhat related matter, we are working with IRS so that ATF can take over deposit functions as they relate to alcohol and tobacco excise taxes and special occupational taxes. This too will result in a greater efficiency both to the Treasury Department and the taxpayer.

Effective October 1, 1985, the excise tax rate for distilled spirits increased from $10.50 to $12.50 per proof gallon. Along with that increase, a one-time Floor Stocks Tax (FST) of $2.00 per proof gallon was levied on all distilled spirits in inventory at every commercial outlet on that date.

ATF inspectors conducted over 5,000 FST inventory verifications, which resulted in the collection of approximately $917,000 in additional taxes. In-depth examinations of those taxpayers identified where noncompliance would cause the greatest revenue loss are currently being conducted. Two thousand of these examinations, thus far, have resulted in the collection of an additional $673,000 in taxes.

ATF processes thousands of requests each year for alcohol beverage

label approvals. By statute, we also maintain detailed records concerning fully automatic and certain other weapons covered under the National Firearms Act. In these two areas, we have automated our files so that the records are more efficiently maintained and information more accessible. The automation of our label approval files has been particularly advantageous to both industry and us because: (1) we are able to act on their label requests at least twice as quickly as in the past; (2) industry representatives and members of the public now have speedy and accurate access to our label approval files; and (3) any question of product integrity can be researched more quickly to ascertain which industry members distribute certain products so as to protect public safety.

ATF has upgraded the skills of its employees by providing them with modern equipment and advanced training. We have obtained office computers for all regional and area offices and intend to provide upgrades and additional equipment when warranted. The Bureau continues to provide advanced training in several areas for its employees, for example, automated data processing (ADP), cost accounting, interview techniques, and management courses.

LEGISLATIVE CHANGES

In April 1985, the U.S. Supreme Court promulgated and transmitted to Congress several proposed amendments to the Federal Rules of Criminal Procedures. These amendments subsequently went into effect in August 1985, with the approval of Congress. The amendments changed two of the five exceptions to the general rule of secrecy regarding the Federal Grand Jury. The purpose of the amendments was to clarify the rule to include State and local personnel and permit disclosure of information when Federal and State authorities are cooperating in an investigation where the jurisdiction overlaps. This change has significantly enhanced the manner in which ATF special agents and State/local authorities work together in carrying out their responsibilities in the criminal justice system.

As of November 19, 1986, the amendments to the Gun Control Act of 1968 and the National Firearms Act became effective. While it is too early

to identify specific problem areas, initial evidence indicates that understanding and, therefore, implementation of the new legislation is progressing satisfactorily. The amended laws' definitions of a firearm, a conviction, and a machinegun, and their impact upon our law enforcement efforts are continually being discussed. We will continue our monitoring until a definite trend is identified. This will create a uniform application of the new law through consistent review and discussion of questions being raised by the courts, attorneys, licensees, citizens, and law enforcement officials.

LAW ENFORCEMENT PROGRAMS

The Bureau has realized important achievements in the fight against violent crime as a result of the emphasis of our law enforcement activity. Our firearms, explosives and arson programs in particular have been successful in combating crime, especially in the areas of bombings, narcotics trafficking, arson-for-profit, terrorism, and other crimes of violence.

In FY 1986, the firearms program focused on apprehending previously convicted felons who, having gained their freedom, perpetuated their particular brand of violence by illegally using firearms. This classification of criminal is singularly responsible for more violent crimes than any other group; their menacing presence affects the way our citizens live and our businesses operate. We will continue to identify them, vigorously investigate their crimes, and perfect criminal cases for prosecution whenever possible.

We are also acutely aware of the alarming increase in the number of domestic and international terrorist/hate groups in our nation. As a result, ATF special agents have initiated numerous investigations concerning these groups' violent misuse of firearms and explosives. These people are criminals whose terrorist and violently discriminating activities have repeatedly occurred in our country. ATF's identification and exposure of them and their associates has continued to heighten our nation's awareness of their violent acts and will continue to do so.

ATF is also committed to exposing those corrupt profiteers who knowingly and willfully traffic in firearms, ammunition, and explosives in furtherance of all types of criminal activities. Because of the harm caused by the criminal actions of these traffickers, they too have been particularly targeted for investigation.

Unscrupulous property owners who hire arsonists to burn their buildings for insurance monies, and never consider the lives of firefighters, police officers, or medical personnel who die or are injured while performing their duties, have also been identified for intense investigation. These criminals' wanton disregard for those responsible for protecting the property and lives of our citizens is so repugnant that enhanced penalties have been incorporated into Federal arson statutes and are applicable in those instances where death or injury occurs as a result of these fires. ATF's enforcement effort under these statutes will be paramount.

EXPLOSIVES PROGRAM

The vicious and indiscriminate nature of criminal bombings evokes outrage and fear in the citizenry of this Nation. The visible public reaction to the abortion clinic bombings which continued in 1986 is graphic testimony to this. For these reasons, explosives investigations are ATF's number one enforcement priority. During FY 1986 there were 1,197 reported bombings or attempted bombings which resulted in 39 deaths, 332 injuries, and over $18.7 million in property damage. Further, approximately 17 tons of explosives were illegally diverted in 188 reported thefts. Through ATF's investigative efforts and existing programs, 12.4 tons of previously reported stolen explosives were recovered during this same period.

The amount of explosives stolen in the United States is particularly important in that a significant amount of the explosives is never recovered. It is believed that some of these stolen explosives are eventually purchased and used in legitimate mining and construction activities. However, with the current availability of stolen explosives in the underground marketplace

and ready accessibility to the technology of bomb-making afforded by numerous publications in circulation, the potential for the criminal misuse of explosives must be assessed as very high.

ATF's posture in addressing its explosives enforcement mission of reducing the number of criminal bombings through active prosecution, assisting State and local agencies in their efforts to interdict the illegal use of explosives, and removing the hazards to the public posed by improper storage or use of explosives, is necessarily multifaceted and dynamic in nature. In illustration, a brief overview of ATF's explosives programs presently in effect and those areas of immediate future commitment are presented.

Traditional Explosives Enforcement Cases:

In FY 1986 ATF recommended a total of 375 defendants for prosecution for violations of Federal explosives laws. The following summarized explosives cases, limited in number as necessitated by the nature of this presentation, are only some examples of the significant results achieved by ATF in this area.

On July 9, 1985, in Naples, Florida, two members of a wealthy family were killed and a third seriously injured when two bombs exploded inside the vehicle they were driving. ATF immediately responded to the scene. All evidence collected at the scene and subsequently obtained was submitted to ATF laboratory facilities for analysis. Investigation by ATF in conjunction with the Collier County Sheriff's Office revealed that a brother/son to the deceased and injured individuals had purchased items similar to those used in the construction of the bombs utilized. This brother/son was in line to inherit $15 million dollars upon the death of the three individuals killed or injured in the car bombing. ATF developed and analyzed evidence leading to the arrest on August 22, 1985, of this individual on State charges of murder and attempted murder. On August 17, 1986, after a 4-week jury trial in Fort Meyers, Florida, State Court, the brother/son was found guilty of two counts of first degree murder, one count of attempted first degree murder, two counts of placing a destructive device with intent to cause property damage or death, one count of arson, and three counts of arson with intent to cause injury. On September 2, 1986, the subject was sentenced to two life sentences and 22 years imprisonment, to run consecutively.

Between October 1985 and October 1986, 12 abortion facilities located in North Carolina, Louisiana, New York, Ohio, Kansas, and Missouri suffered bombing and arson

damage estimated in excess of $940,000. ATF investigations have resulted in solving three of the incidents in Louisiana with the arrest and conviction of two subjects on arson and conspiracy charges. Two additional suspects have been indicted.

On August 13, 1985, two motor vehicles located at a residence in Racho Cucamonga, California, were firebombed causing an estimated $2,500 damage. Similarly on that same morning, another vehicle was firebombed at a residence in Ontario, California. Both vehicle owners were former employees of a chain of preparatory schools known as the California Learning Center. A nine month ATF investigation disclosed that the owners of the schools hired the operator/chief instructor of a mercenary training school located in Hueyton, Alabama, to locate and "resolve" a dispute they were having with the former employees. The mercenary instructor and three associates located the former employees and firebombed the vehicles mentioned above. On July 9, 1986, one associate pled guilty to the firebombing of a 4th motor vehicle on August 12, 1985, and is a cooperating witness who is expected to testify against the mercenary school instructor. On July 21, 1986 a second associate pled guilty to two 10-year explosives charges and will be a cooperating witness. This suspect stated the instructor of the mercenary school masterminded and carried out the firebombings with the assistance of two associates. On October 27, 1986, the two owners of the California Learning Center pled guilty to accessory after the fact and racketeering charges. The mercenary school instructor and the two remaining associates are scheduled for trial in U.S. District Court, Los Angeles, on March 10, 1987.

On October 15, 1985, a bomb detonated at the offices of the Financial Services Company in Salt Lake City, Utah, killing one person. The ATF investigation disclosed that at 5:30 a.m., an unidentified white male placed a cardboard parcel, which was addressed to the victim, outside his office entrance door. The explosion also caused superficial lacerations to a witness to the explosion. On October 15, 1986, a bomb detonated at a Salt Lake City residence, killing a second individual. On October 16, 1985, a subject was seriously injured when a bomb he was handling detonated within his motor vehicle in Salt Lake City, Utah. Evidence found at the scene of the bombing indicated that the victim was the bomb maker. The ATF investigation revealed that the devices utilized in each of the bombings were identical in design and componentry. On May 22, 1986, one suspect was bound over for trial in Utah State court for two counts of murder, three counts of construction, for delivery of an "infernal machine", and 25 counts of fraud. On January 23, 1987, the suspect pled guilty in Utah State Court. The suspect was then sentenced to serve 5 years to life for second degree murder, 1 to 15 years for manslaughter, and 1 to 15 years on each of two counts of theft by deception.

On August 12, 1986, the Farmers Branch Fire Department responded to a fire at a family residence in Farmers Branch, Texas. Early detection of the fire by a

neighbor enabled firefighters to confine the fire to the bedroom area of the home. Located in the fire-damaged bedroom were the bodies of a man and woman. At the request of the Farmers Branch Police Department, ATF responded to the scene immediately. Discovered in the hall leading to the bedroom were two unignited incendiary devices. After being rendered safe by the Dallas Police Department Bomb Squad, these devices were identified as a military parachute flare and a cardboard container from a parachute flare containing smokeless powder and a fuse. An aluminum casing from an expended parachute flare was also discovered next to the burned bed. The home's fire alarm had been deactivated by pulling it away from its wall mount. The investigation quickly focused on a business associate of the deceased who was identified as a former Irving, Texas police officer. The subsequent execution of a Federal search warrant at the former officer's residence netted a substantial amount of evidence linking him to the two homicides. On August 20, 1986, the former officer was arrested by ATF without incident. A State retainer was subsequently placed on him for the charge of capitol murder. On August 27, 1986, the Federal grand jury sitting in the Northern Judicial District of Texas returned a True Bill charging the suspect with three counts of violating Federal explosives laws. These three counts stem from the three destructive devices found at the scene of the crime.

ATF's timely, effective, and professional reaction to explosives investigations is the result of in-depth training of its agents and innovative programs established to support and enhance the field agents capabilities. Among these programs are:

The Explosives Incident System (EXIS). EXIS is the recipient of all pertinent information from every ATF bombing investigation and is capable of researching bombings as to trends, patterns, targets, componentry, and modus operandi. All information available through EXIS is routinely forwarded to the U.S. Secret Service, Federal Bureau of Investigation's Domestic Security and Terrorism Section, and U.S. Military investigative agencies.

National Response Teams (NRT). Four NRT's are strategically located throughout the country and capable of mobilizing a team of specialized investigators at the site of a major explosives/arson incident within 24 hours to conduct searches and follow-up investigations. More information regarding this program and its effectiveness will be presented under the category of arson addressed later.

Yearly, a number of ATF special agents are selected and undergo training in post-blast investigation, explosives handling and destruction, or training as explosives instructors.

State/Local Explosives Training

As part of ATF's commitment to assistance to State and local law enforcement, the Advanced Explosives Investigative Techniques (AEITC) course of instruction presented at Glynco, Georgia, was initiated in 1982. To date, 523 State and local officers have attended this program of instruction. The course, originally developed in conjunction with the International Association of Bomb Technicians and Investigators (IABTI), is considered "state-of-the-art" in post-blast investigation and possesses an enviable reputation among all those who have attended.

Public Safety of Explosives

ATF approaches the threat posed by illegal and/or unsafe use of explosives on two fronts: interdiction/disruption of illegal and/or unsafe practices, and education of the public in recognition of, and self-protection against, hazards.

During FY 1986 ATF was actively involved in the investigation of illegal fireworks manufacturers, transporters, and distributors (M-80 Project).

The explosives used in M-80 and M-100 type devices are highly sensitive. When considered with the quantities of powder used in the manufacturing process and the usual lack of quality control and safety precautions, the potential for disaster is enormous. Plans are presently underway to analyze all data available, by ATF district, to more effectively interdict illegal firework manufacturers, distributors, and the illegal sources of raw materials used in the manufacture of these devices.

During FY 1986 efforts continued through the Chief, Public Affairs, local law enforcement authorities, and the media, to increase public awareness of the threat posed by illegal fireworks, and to develop an appreciation of their danger potential. In addition, the 1986 abortion clinic bombings, along with other domestic and international criminal bombings, has heightened the public perception of bomb threats. In recognition of the need of the general public for practical information on how to defend against and react to bombings and bomb threats, ATF has initiated a

program to update and offer training to the private sector. These programs are currently being implemented through awareness training presentations and the preparation of publications on the topic.

1986 Initiatives to Combat Terrorism

During FY 1986, to address the increased threat posed by terrorism, ATF undertook two new initiatives.

I-EXIS. During 1986 ATF took the initial steps in implementation of an international explosives incident data base. ATF currently has the EXIS program, discussed previously, where information from all reported domestic explosives incidents are entered into a data base. The U.S. Government, however, had no program which would permit timely comparison between international incidents or international incidents with domestic incidents. I-EXIS is a separate program that contains information on foreign explosive incidents and has the capability to compare those incidents not only between each other, but also with domestic incidents.

International Training. - ATF is a contributing member to the government-wide Anti-Terrorism Assistance Program (ATAP). This program, administered by the Office of Counter-Terrorism and Emergency Planning, Department of State, was created in response to the alarming increase in international terrorist activity. The objective of the program is to develop specialized expertise in foreign law enforcement officials through training and related assistance. In FY 1986 ATF trained 32 law enforcement personnel representing the participating foreign governments of Turkey and Honduras in two separate schools. In 1987 another two schools consisting of additional foreign law enforcement officials have been scheduled.

Arson Enforcement

While arson is basically a State and local enforcement responsibility, the national magnitude of the problem has exceeded the capabilities of any one agency to effectively respond to the full range of arson crimes occurring within its jurisdictional area. ATF, in promoting the Federal role in this critical program, has spearheaded the drive to coordinate enforcement efforts among Federal, State and local sectors. However, the overall effort by ATF is selective in that we actively investigate only a small percentage of the total arsons committed throughout the country. We are confident that the direction of our investigative activity, along with our assistance to State and local authorities, is compatible with the overall Federal role required to combat the crime of arson.

During FY 1986, ATF recommended 193 cases and 549 defendants for prosecution. This production represented an increase of over 9 percent in cases and a 33 percent increase in defendants from the previous fiscal year. ATF resources are directed toward complex arson-for-profit cases involving industrial or commercial property. Our arson enforcement efforts are also focused on organized crime, arson-for-profit rings, white collar and violent criminals.

In addition to the apprehension and prosecution of violators, ATF utilizes a procedure to capture the "insurance dollars saved" through ATF's arson investigative efforts. During FY 1986, $31.7 million was "saved" in the sense that in the absence of effective law enforcement efforts, the insurance industry could potentially have been caused to pay out $31.7 million more in arson-related claims, thus creating a greater burden upon the premium-paying general public and the Nation's economy as a whole. It should also be noted that many of these respective dollar amounts may increase as the ongoing investigations are completed. From 1979 to the present time this "savings" exceeds $300 million.

In FY 1986, ATF continued its assistance to State and local authorities through the services of four National Response Teams (NRT), located in the Midwest, Northeast, Southeast, and Western regions of the United States. These teams, in their short 7-year history, have been activated in response to 154 incidents, involving 106 deaths, 409 injuries and property damage approaching 1/2 billion dollars. These teams have a phenomenal 96% rate of determination as to the cause of the incident. The following case is an example of the significant results achieved by the Bureau's utilizing the NRT:

> *On December 31, 1986, the National Response Team was activated to investigate an explosion and fire at the Dupont Plaza Hotel, San Juan, Puerto Rico. Responding to and investigating this incident required a heavy commitment from ATF, including approximately 30 special agents and technicians from mainland posts-of-duty to Puerto Rico. Ninety-six individuals, one of whom was a U.S. Secret Service Agent, were killed and 140 persons were injured. Damage was estimated at $11 million. The fire was intentionally set and accelerated with sterno. Several individuals have been arrested and charged with*

various offenses, including malicious destruction to interstate and foreign commerce.

The arson task force concept continues to be one of our most successful strategies in combating this most difficult crime. In 16 cities, Seattle, San Francisco, Los Angeles, Houston, Chicago, Boston, New York, Philadelphia, Pittsburgh, Kansas City, Atlanta, Detroit, Newark, Dallas, St. Paul, and St. Louis, the concept is fully operational with the pooling of talent and resources between Federal, State and local agencies.

In October 1982, ATF initiated a 2-week State and local training course in advanced arson-for-profit investigations. This unique state-of-the-art training, unavailable anywhere else, deals with indepth investigation into arson-for-profit cases beyond the cause and origin determination. To date, over 475 State and local police and fire service personnel have attended this highly acclaimed course. This training is in such demand that it has become a permanent part of ATF's arson enforcement program.

In response to repeated requests from State and local arson investigators, ATF, in conjunction with the Department of Justice's Bureau of Justice Assistance, has initiated a series of seminars directed toward educating prosecutors at both the State and Federal levels in the crime of arson. These seminars acquaint the prosecutors with cause and origin determination of a fire, as well as the legal considerations for a successful prosecution and courtroom techniques. During FY 1986 a total of 28 prosecutors attended the first of these seminars. There are two seminars planned for FY 1987 and an additional 3 seminars for FY 1988. Each seminar will have 30 attendees.

Arson Cases

The following cases are examples of significant results achieved in the Bureau's arson enforcement area:

Hialeah, Florida: On May 31, 1986, arson caused $2.2 million in damages to a cosmetic company. An examination of the crime scene indicated that gasoline was poured down a vent in the roof and was ignited. ATF identified the two arsonists, who stated that an intermediary had hired them to burn the premises. The intermediary was subsequently arrested and identified the company owner as the mastermind behind the scheme. A follow-up

investigation revealed that Powder Puff, Inc., was in severe economic distress. Prior to the fire, the company's line of credit was discontinued and additional credit was not extended. The two torches pled guilty and were sentenced to 9 years and 3 years. The intermediary has agreed to plead guilty and cooperate with the Government against the owner. The owner may be charged with mail fraud and arson.

Long Beach, California: In February 1986, ATF's National Response Team responded to a $3 million arson which destroyed a commercial building housing 11 businesses. Seven of the businesses were destroyed. The fire scene investigator located evidence of pour patterns in one of the stores. Subsequent investigation revealed that the owner was experiencing financial problems. In 1978, the owner moved in with his bedridden grandfather and assumed custody of the grandfather's financial affairs. Shortly thereafter, the business owner began writing personal checks against his grandfather's accounts. These funds were used to keep his business from bankruptcy. Several members of his family discovered the embezzlement and demanded restitution. In February 1986, the owner increased his insurance coverage on the business from $100,000 to $800,000. Three weeks later, the business premises was destroyed by fire. In March 1986, the owner failed a polygraph examination and admitted to setting the fire. On September 2, 1986, the owner was sentenced to 3 years in prison and was ordered to make restitution.

Western Missouri: In mid-1986, ATF began an investigation into an "arson ring" which specialized in "torching" rural dwellings in western Missouri for economic gain through "straw buyers." The principal arsonist, who faced one indictment with the potential for six or seven others, pled guilty to two counts of mail fraud and agreed to cooperate with the Government. The arsonist admitted to participating in over 300 arson fires during a 28-year period for which he was paid over $3.5 million. The arsonist's testimony and evidence gathered during the follow-up investigation resulted in eight individuals and one corporation being charged in a 37-count RICO indictment. Three defendants pled guilty to RICO charges and all others (but one) pled guilty to mail fraud. The final defendant's charges were dismissed. The defendants were sentenced to prison for terms ranging from 3 to 10 years.

Long Island, New York: On August 13, 1983, arson destroyed a video game manufacturing company located on Long Island, New York. Damages to the building, the video business, and several surrounding businesses exceeded $500,000. The ensuing investigation was a cooperative effort with the FBI, which was investigating the illegal importation and sale of video game components from the Far East, a violation of Federal copyright laws. Both agencies were subsequently able to obtain indictments and convictions for various violations. The company owner pled guilty to mail fraud on July 11, 1986, and was sentenced to 3 years' imprisonment, 5 years' probation, and a $5,000 fine.

FIREARMS PROGRAM

ATF's Firearms Enforcement Program focuses on those crimes, criminals, or criminal organizations which pose the greatest threat to American society based on a consensus opinion of the criminal justice community. Accordingly, our Firearms Program is prioritized and continually revamped to ensure that we are addressing the most serious firearms threats.

Dangerous and Special Offenders

Our Firearms Program can be categorized into five major areas. The first is classified as the Dangerous and Special Offenders/Organizations, focusing on habitually active and violent criminals. Greater emphasis has been placed on organized crime figures, members of violent extremist groups, outlaw motorcycle gang members, and major narcotics dealers. The following are but a few of our accomplishments in this area:

> *Outlaw motorcycle gangs are among some of the nation's most vicious criminals. Drug trafficking, the illegal manufacture of drugs, contract murder, weapons thefts, bombings, and extortion are part of their daily lives. The bomb and the gun are common tools of their trade.*
>
> *Since 1972, ATF has investigated over 8,000 suspects who are gang members or associates, supported by about 4,000 fringe members and 8,000 female associates. These investigations have demonstrated that these gangs are the largest and most well-armed criminal organizations in the country.*
>
> *Over 800 outlaw motorcycle gangs are operating in the United States and throughout the world. The big four, Hells Angels, Outlaws, Pagans and Bandidos, blanket the U.S. from coast to coast.*
>
> *ATF agents have been actively pursuing these groups, tracking their increasingly sophisticated crimes and targeting those gang members who violate the Federal laws enforced by ATF. In March 1986, ATF, assisted by 30 State and local law enforcement agencies, culminated one phase of "Operation One-Percenter", a major national initiative against outlaw motorcycle gangs (OMG). In Phase I, a total of 60 biker members and their associates from 19 OMG's were arrested in 18 states. They were charged with violations of the Federal firearms, explosives, arson, and conspiracy laws as well as State charges. "Operation One-Percenter" derives its name from a statement by a former American Motorcycle Association president who said in the late sixties that only one percent of the bikers in the U.S. were engaged*

in criminal acts. The statement resulted in the term "one-percenter".

Approximately 90 percent of the defendants were felons; and several had 3 or more felony convictions. One subject, an associate of the Outriders OMG, had been arrested on 40 separate occasions.

During this phase of the operation, 27 State and Federal search warrants were executed nationwide, and the following seizures were made:

10 machineguns
10 sawed-off shotguns
6 silencers
component parts for 20 additional silencers
4 hand grenades
5 pounds of dynamite
100 handguns
63 long guns
15 stolen motor vehicles
1/4 million dollars in stolen electronic equipment
one complete methamphetamine lab
small amounts of cocaine, marijuana, and PCP

This multi-state roundup was the culmination of the first phase of a 12-month operation directed against the criminal elements in the outlaw motorcycle gangs.

ATF's "Operation One-Percenter" is an ongoing and continuing operation. Phase II, a series of undercover investigations, is still underway.

During FY 1986 two of our special agents uncovered a national murder-for-hire ring operating throughout the United States. The principal defendants in this case used advertisements in a national paramilitary magazine to solicit contracts throughout the country.

During the period from August 1985, to May 1986, the primary suspects and their associates allegedly committed bombings, arson, murder, and attempted murder in 12 states. These ATF agents either charged, or provided substantial information to charge, the defendants with 4 bombings, 1 attempted bombing, 2 murders, 2 attempted murders, and 4 illegal firearms cases.

This murder-for-hire ring, a very serious and deadly menace to our society, was successfully eradicated due to the dedication, professionalism, and perseverance of these two ATF special agents. They were honored for their work in this investigation by the National Association of Federal Investigators, which named them co-winners of the annual Federal Criminal Investigator of the Year Award for 1986.

Since the enactment and subsequent amendment of the Comprehensive Crime Control Act, the results of significant sentencing of these habitual

and violent criminals have started to generate increased interest among prosecutors and law enforcement in general. The enhanced penalties for armed career criminals convicted under this legislation have given law enforcement a much needed tool to rid itself of persistent, habitual, and violent offenders, as well as drug dealers.

Since October 1, 1985, ATF has initiated 84 cases against these defendants and obtained 63 indictments; 33 convictions have thus far been obtained. Some notable examples of sentences imposed under this statute follow:

> *On August 26, 1986, a career criminal with 3 convictions for robbery with a deadly weapon as well as convictions for armed robbery and escape from custody, pled guilty to Federal firearms charges in St. Louis, Missouri. He was subsequently sentenced to 30 years' imprisonment.*
>
> *March 27, 1986, another recidivist with a violent criminal history involving the misuse of firearms was convicted of Federal firearms violations in Roanoke, Virginia. As a result of the conviction he was sentenced to 25 years.*
>
> *On May 16, 1986, a defendant with an extensive criminal history, including felony convictions for burglary, assault, armed robbery and escape, was convicted of Federal firearms charges. He was later sentenced to 25 years.*

Criminal Trafficking

The second major category of the Firearms Program concerns criminal trafficking of all types of firearms. This area can be summarized as the identification, investigation, and apprehension of individuals or groups who are substantial sources of firearms for the criminal element, and who demonstrate a flagrant disregard for the law. Included are those who illegally deal in stolen firearms and are involved with burglary and fencing operations, and those who illegally traffic, manufacture, or convert machineguns and silencers. The following are some of our accomplishments in this area:

> *On August 15, 1986, a 16-month joint undercover investigation, conducted by ATF and the Minnesota Bureau of Criminal Apprehension special agents, was completed with the execution of Federal and State arrest and search warrants throughout central Minnesota.*

Thirteen Federal arrest warrants and nine Federal search warrants were executed. Fourteen State arrest warrants and four State search warrants were also executed. During the execution of the search warrants, 82 firearms were taken into custody. Eight were machineguns, ten were sawed-off shotguns or rifles, and two were silencers. During the investigation, the ATF agents accumulated probable cause for these warrants and purchased 112 firearms. Forty-one of these guns were stolen, and another nineteen were either machineguns, sawed-off shotguns, sawed-off rifles, silencers, or destructive devices. The state agents also purchased stolen property valued at $145,000.

On November 26, 1985, ATF agents concluded an extensive undercover investigation with the execution of a Federal search warrant at the factory of a Federal licensed firearms manufacturer in Barrington, Illinois. The agents seized 1,760 machinegun receivers and 3 unregistered machineguns.

On June 27, 1986, the Federal firearms licensee, (FFL), his son, and daughter-in-law were indicted for Federal firearms violations. The defendants were accused of illegally manufacturing, selling, and possessing illegal short-barreled rifles and automatic weapons. The FFL is the owner of the above-mentioned firearms factory, which was manufacturing firearms receivers using machinegun parts. The firearms were sold as semi-automatic rifles, but were capable of automatic fire. ATF is now conducting a recall operation to allow the legitimate purchasers of the weapons to convert them to semi-automatic firearms.

On April 16, 1986, a Federal firearms licensee (FFL) and an associate were sentenced in a Tucson, Arizona, Federal court for conspiring to manufacture and sell unregistered machineguns. The two individuals had each sold an unregistered machinegun to an undercover ATF special agent. Subsequent Federal search warrants resulted in the seizure of 10 additional machineguns and 12 machinegun conversion kits. The defendants were alleged members of a survivalist group composed of white supremists and tax protesters. This organization believed that its members must arm themselves for the coming revolution.

On June 21 and 22, 1986, ATF agents and local police executed Federal and State search warrants at the Chickasha, Oklahoma, residence of a convicted felon. The defendant was a reputed drug dealer and a suspected fence of stolen property. The investigators seized 52 firearms, including a machinegun, one pound of methamphetamine, and a large quantity of stolen property including jewelry and stereo equipment.

International Trafficking

The third major Firearms Program area involves the illegal movement of firearms in international traffic, a worldwide concern. Since ATF has the primary responsibility in this country for the enforcement of Federal

firearms laws, the Bureau must maintain an aggressive commitment toward neutralizing the illicit movement of firearms into, and out of, the United States. Examples of our efforts in these areas are:

On October 14, 1986, an 18-month investigation into illegal arms smuggling to Mexico culminated in Laredo, Texas, with the indictment of 30 defendants. Seven Federal firearms licensee (FFL's) were among those indicted. The FFL's are accused of illegally selling guns to Mexican Nationals and then falsifying their firearms records. The investigating ATF special agents believe that this group illegally diverted at least 7,500 firearms to Mexico and strongly suspect that another 2,000 to 3,000 guns were sent there in addition to the original 7,500.

On March 21, 1986, a Federal firearms licensee (FFL) and an associate were indicted in Los Angeles, California, for conspiracy, aiding and abetting, and recording false entries in Federal firearms dealer's records. The two defendants caused the diversion of over 1,000 firearms, with an estimated value of $250,000, to the Philippine Islands. The investigation was initiated as a result of the recovery of 50 guns in the Philippines.

Technical Assistance

The fourth Firearms Program area, technical assistance, involves testing and evaluating firearms, ammunition, and implements of war for proper classification under Federal law, and advising State, local, and other Federal agencies on the technical aspects of firearms. We also trace firearms to assist Federal, State, and local law enforcement authorities. For example, in 1985, ATF received 44,547 requests for firearms traces from various law enforcement agencies. We processed approximately 37,547 of these requests and transmitted the information to the requestor. Some examples of our more recent traces are as follows:

In October 1985, an armed robbery occurred at a service station in Ingleside, Illinois. The responding police officers attempted to capture a suspect at the scene but he was able to escape, leaving behind a suspect firearm. The firearm, a handgun, was traced through 8 previous owners to a person who was subsequently identified as the uncle of the armed robbery suspect. The firearm which had been stolen from the uncle, was used as evidence to tie the defendant to the crime.

On January 15, 1986, the San Diego, California, police requested ATF assistance in tracing a rifle used in an apparent "gang" shooting. This incident occurred in a crowded restaurant and resulted in one dead and seven wounded. ATF traced the firearm in less than 24 hours.

The trace information developed suspects, who were later arrested.

On January 25, 1986, a fight occurred at a lounge in Russellville, Kentucky. During the altercation, a patron was shot twice in the stomach. Police recovered the handgun used in the assault from under one of the tables. None of the suspects in the shooting claimed the weapon. At the request of the Russellville police, ATF traced the firearm and determined that it belonged to one of the suspects.

In April 1986, ATF traced several firearms subsequent to the shooting deaths of two FBI agents in Miami, Florida. Nine of the traces were completed within hours of the incident and were subsequently determined to have been purchased by the criminal suspects involved in the shooting, or one of their family members.

In October 1986, a restaurant employee in Denver, Colorado was shot and killed while enroute to make a bank deposit. A .22 caliber revolver was subsequently discovered near the shooting scene and a trace was initiated by ATF. The trace, which was completed in 25 minutes, resulted in the identification of two homicide suspects who had purchased the firearm from a licensed dealer 3 days prior to the murder. Arrest warrants were issued.

Relief from Disability

The fifth and last area of the Firearms Program involves investigating relief from disability applications. During FY 1986, ATF completed 1,436 of these investigations. Of those requiring a final decision by ATF, the Bureau restored firearms privileges to 474 qualified applicants and denied 289 applications.

ALCOHOL PROGRAM

The alcohol industry provides a multi-billion dollar tax revenue source to Federal, State, and local governments. Because of the tremendous amount of funds generated by this industry, it has historically been susceptible to organized or white collar criminal activity. The Bureau's efforts are directed toward protecting this revenue source from individuals who have demonstrated a disregard for the law. However, despite our comprehensive efforts, a small number of criminals continue to infiltrate the industry and attempt to defraud the government through evasion of excise taxes.

ATF has conducted investigations during recent years which have

disclosed illegal payoffs, kickbacks, commercial bribery, hidden ownership, and other violations of the Federal Alcohol Administration (FAA) Act and the Internal Revenue Code (IRC). Additionally, ATF has conducted investigations, and assisted State agencies in investigations, pertaining to the illegal production of alcohol, or moonshine. ATF does not expend an inordinate amount of resources to investigate the illegal production of alcohol, since this activity has subsided considerably due to economic factors and effective enforcement efforts. During FY 1986, ATF seized 8 illegal stills, 4,331 gallons of mash, and 9,716 gallons of illegal liquor.

ATF conducts legal alcohol enforcement training courses, concentrating on violations of ancillary Federal statutes, such as, RICO, Hobbs Act, and mail fraud. Illicit alcohol enforcement training courses for State and local enforcement officials, are also taught by ATF and concentrates on suspect methods of operation and investigative techniques.

TOBACCO PROGRAM

Public Law 95-575 was enacted on November 2, 1978, to eliminate racketeering in the sale and distribution of cigarettes. Since that time, ATF has provided the leadership, technical expertise, and the training which are necessary to enable States to develop their own contraband cigarette programs. During that same time frame, ATF also provided investigative assistance in complex, multijurisdictional tobacco tax frauds.

The Advisory Commission on Intergovernmental Relations conducted two studies, one in 1975 and the other in 1984, into the contraband cigarette problem. They concluded that since the enactment of Public Law 95-575, the tax loss has dropped from 10 percent of the total revenue due States from their cigarette taxes to 5.4 percent. The majority of that 5.4 percent is from activities outside of the purview of The Contraband Cigarette Act. These include small bootlegging activities associated with military bases and Indian reservations.

We view contraband cigarette enforcement as primarily a State problem requiring a State solution. We see ATF's role as coordinating intelligence collection and giving investigative assistance where the

jurisdictional limits of a particular State have been exceeded, and to provide investigative training and laboratory support to State and local agencies as needed.

It is our stated objective to support a complete transfer of the responsibility for enforcement of tobacco statutes from Federal to State and local authorities. In furtherance of our objectives in this program, we have initiated a program of collecting intelligence on contraband cigarette trafficking from source States, and then providing that intelligence to the affected State agencies for their enforcement efforts.

We have continued to conduct training in contraband cigarette enforcement for State and local officials. This training will serve to enhance the abilities of the State to effectively address the contraband cigarette problem. We have also continued to assist the States in an advisory capacity, and make the ATF laboratory expertise in the detection of counterfeit tax indices available to them. Consequently, the States have developed enforcement capabilities to address the current problem, and responsiblilty for the enforcement effort will be transferred to the States during FY 1987.

ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM

On October 14, 1982, President Reagan announced that 12 regional task forces would be created to implement a coordinated Federal effort against drug trafficking organizations. The task forces, designated as Organized Crime Drug Enforcement Task Forces (OCDETF), became fully operational during FY 1983. On October 1, 1984, the Florida Caribbean Task Force was added as the thirteenth task force.

During FY 1986, ATF agents assigned to the OCDETF Program initiated 559 investigations and submitted 315 criminal cases, recommending 450 OCDETF targets for prosecution. Also worthy of note is the fact that in FY 1986, ATF participated in approximately 40 percent of all OCDETF investigations. This represents a steady increase since the inception of the program.

ATF efforts in the task forces during FY 1988 will continue to be directed against violations of the Federal firearms and explosives laws committed by organized criminal groups, whose principal income is derived from trafficking in illegal drugs.

The following cases are examples of significant results achieved by the Bureau's OCDETF participation:

Duncanville, Texas: On September 12, 1986, two convicted felons and known drug traffickers were arrested for conspiracy to transport explosives in interstate commerce to commit murder. The object of the murder plan was a former business partner in Williamsburg, Kentucky. Two previous attempts had been made on the subject's life, and each is the subject of a separate ATF investigation. Seized pursuant to the execution of a search warrant were a high-powered rifle and scope, explosives, an RPB MAC-10 machinegun, and documentary evidence substantiating the murder plot.

Los Angeles, California: On June 29, 1986, ATF special agents, in conjunction with DEA and the Los Angeles Police Department, executed six arrest warrants and two consent searches that resulted in the seizure of approximately 70 kilos of cocaine, six handguns, three rifles, three shotguns, and over $150,000 in cash. These arrests were the culmination of an investigation that involved a Bolivian police official soliciting a DEA and ATF undercover agent to travel to Santa Cruz, Bolivia, to pick up 500 kilograms of cocaine. During the course of the investigation, the individuals involved delivered currency and cocaine to the undercover agents in order to finance the trip to Bolivia.

Chicago, Illinois. On October 30, 1986, four members of the El Rukn drug trafficking organization were indicted on charges of conspiracy, possession of weapons, and use of interstate facilities to carry on unlawful activities. Between March 1986 and October 30, 1986, the defendants, in furtherance of the conspiracy, dealt with representatives of the government of Libya in an effort to obtain money in exchange for the commission of violent acts in the United States on Libya's behalf. In their efforts to promote and carry on their alleged illegal activities, the conspirators allegedly acquired and attempted to acquire illegal firearms, including machineguns, silencers, hand grenades, and M-72 Series light anti-tank weapons, commonly known as LAW rockets.

St. Paul, Minnesota: On August 15, 1986, a 16-month joint undercover investigation conducted by ATF and the Minnesota Bureau of Criminal Apprehension was completed with the execution of 13 Federal arrest warrants and 9 Federal search warrants. Additionally, 14 State arrest warrants and 4 State search warrants were also executed. During the investigation, 112 firearms were purchased as evidence. Forty-one of these weapons were stolen, and another 19 were either machineguns, sawed-off shotguns, sawed-off rifles, silencers, or destructive devices. In

addition, cocaine, marijuana, and other narcotics were also purchased. During the execution of the search warrants, an additional 82 firearms were taken into custody. Eight were machineguns; ten were sawed-off shotguns or rifles; and two were silencers. In addition, 203 blasting caps, 15 explosive boosters, 65 hand grenade shells, 20 hand grenade fuses, and 21 35mm practice rockets were also seized.

Yakima, Washington: On May 7, 1986, the National President of the Ghost Rider Motorcycle Gang was convicted in U.S. District Court in Yakima, Washington, of unlawful transportation of firearms in interstate commerce and conspiracy to distribute narcotics. As a result of information developed by ATF, the subject was also convicted of first degree murder and arson in October 1985 in Dane County, Wisconsin. He was later sentenced to life imprisonment for the murder, and 35 years for the arson. The subject has also been charged with second degree murder of a Spokane, Washington police officer. The police officer was murdered while attempting to arrest Ghost Rider associates as they were attempting to ransom $500,000 worth of stolen firearms back to the owner. To date, 28 gang members have been arrested or have fugitive arrest warrants outstanding.

ASSISTANCE TO THE UNITED STATES SECRET SERVICES

In FY 1988, ATF will begin a heavy commitment to the U.S. Secret Service protection responsibilities with the onset of the 1988 Presidential election campaign. It is anticipated that ATF will expend approximately 150 staffyears in Fiscal Years 1988 and 1989.

We willingly accept U.S. Secret Service requests for our assistance. Their confidence reflects on the professionalism of our field agents and this assistance has further reinforces our working relationship with our sister agency.

TREASURY LAW ENFORCEMENT COMMUNICATIONS SYSTEM II

ATF has recognized for some time the need to develop an integrated law enforcement information data base in support of law enforcement investigative operations and activities. A suitable data base is now being designed as a result of a Departmental mandate to develop the Treasury Law Enforcement Communications Systems (TECS II). This system will replace the present TECS system which, for ATF purposes, will serve primarily as a suspect index. ATF supplies approximately one-third of all records in TECS and is a major user and beneficiary of the system.

ATF presently uses numerous "systems" which are independent, non-

integrated and are of limited value to our field operations in managing large information files. Specifically, these are firearms and explosives licenses, traced firearms, NFA registrations, explosives incident, and the Law Enforcement Management Information System (LEMIS) records. Some of these "systems" are located at ATF Headquarters and others are under the control of other Federal agencies.

The automated Law Enforcement Management Information System (LEMIS) is used to collect more accurate, meaningful data from field agents and vastly reduce the amount of time spent by these agents on completing routine reports. This system is one of the most advanced management data tracking systems in law enforcement, and provides information needed by Bureau management to gauge the success of our functional programs, and to verify the impact of our resource deployment.

The present TECS will be terminated in 1987 and TECS II will become operational. TECS is being replaced because it cannot meet the modern requirements for law enforcement including increased emphasis on computerized investigative techniques, analysis of intelligence data, and targeting of potential violators.

TECS II, as it is being developed, will enable the users to have a modern data base management system; on-line, interactive data entry and retrieval; user friendly querying and report generation; and statistical and analytical capabilities, all in a modern integrated computer system.

ATF will be a major user and beneficiary of the new TECS System. In addition, significant cost savings will occur if ATF proceeds with its data base modernization concurrently with TECS II development; i.e., system development costs are shared for many common applications, overhead is reduced, procurement can be consolidated, data base compatibility is assured and solutions developed by one are often usable by the other participating agencies.

COMPLIANCE OPERATIONS

ATF has the responsibility of regulating several industries which market products that are sensitive in nature and subject to much public

interest. It has been the Bureau's philosophy to regulate only in those areas which need to be regulated and then only to the extent necessary to achieve the intent of the law. We seek to reach a balance between effective administration of statutory requirements and the legitimate needs of industries under our jurisdiction.

The Bureau is extremely selective in setting goals to assure effective resource utilization. We ensure that these resources are efficiently used by concentrating our field work and regulation process on those areas which cause the most jeopardy to revenue collection or which pose the greatest threat to public safety.

To accomplish this objective, the Bureau's field offices continually assess and report on the compliance climate in their geographical jurisdictions. We then target our examinations to those entities where the greatest potential for noncompliance exists. Throughout the year, and especially at its conclusion, we analyze the progress made in our field programs, make necessary revisions, and identify new targets for the following year.

In addition to our regulation and field programs, we have adopted several other initiatives to increase compliance levels. We are improving the productivity of our employees by providing advanced training and by automating various activities in our offices. In all program areas, we conduct educational seminars which involve the active participation of industry members and State agencies. These seminars are creating an atmosphere in which our requirements are better understood and more likely to be complied with by all industry segments.

ALCOHOL PROGRAM

The Bureau's alcohol compliance program prevents entry of criminals or other prohibited persons into the industry with a full qualification program, ensures collection of alcohol beverage excise taxes through field examinations and office reviews, protects public safety by ensuring the integrity of alcohol beverage products, and provides an orderly marketplace so producers, distributors and consumers can trade freely.

Qualification

ATF is responsible for keeping prohibited and unqualified persons out of the alcohol beverage industry. We achieve this goal in two ways. First, under our comprehensive qualification process, we issue permits only to those individuals who have the necessary business experience, are not statutorily prohibited, and are likely to comply with our requirements. Second, for entities already qualified and possessing permits, we ensure that they remain in compliance by conducting highly selective investigations to determine that no hidden ownership or illegal funding has occurred.

Tax Compliance

Historically, ATF has encouraged the alcohol industry to pay the proper taxes through a strong revenue examination program. In FY 1986, there were $5.5 billion in alcohol excise tax collections. We believe that the current rate of tax compliance is directly related to this effort and that we can only expect future compliance to be as good as the examination, verification and enforcement process. The following are examples of the findings of revenue examinations conducted by Compliance Operations field personnel.

Examination of an industrial alcohol plant in New Jersey disclosed that records had not been properly maintained since business commenced. An audit of tax returns resulted in additional taxes, penalties, and interest of $165,243. This additional tax has been collected. An Offer-in-Compromise of $5,000 was also recommended for recordkeeping violations.

An examination of a pharmaceutical company in Puerto Rico revealed violations of failure to file certain tax returns and accurately pay taxes on articles shipped to the US, and failure to maintain an account of charges and credits against their bond, which ships articles containing alcohol to the US. The proprietor acknowledged the violations and paid all amounts owed which amounted to $121,506.93 in taxes, penalties, and interest.

A national audit of one company's distilled spirits plants has resulted in additional tax of $23,002 due to an error found on MNBP withdrawals. This company will also pay an additional $71,048 for claiming excess wine and flavor credits and for claiming credit on Canadian whiskey which did not contain flavorings. An audit at another of this permittee's plants has disclosed a

potential tax liability of $145,995 plus penalty and interest.

In support of examinations conducted at the premises of revenue producing plants, specialists in ATF regional offices review tax returns and other documents submitted by revenue producers. These office reviews are an important part of ensuring that excise taxes are collected.

ATF is constantly striving to maintain an effective taxpayment compliance program. The audit skills of inspectors have been increased by an active training program and by management insistence upon high standards. Advanced training, such as ADP and Cost Accounting, is being given to field employees so that they are better able to detect taxpayment deficiencies. ATF also has a small but effective staff of professional auditors who conduct examinations of the largest and most sophisticated taxpayers, and who serve as a technical resource for other segments of the Bureau.

On October 1, 1985, the excise tax rate on distilled spirits was raised from $10.50 to $12.50 a proof gallon. In connection with this increase, a one-time floor stocks tax of $2 a proof gallon was levied on all distilled spirits in inventory on that date. We felt that unique approaches were necessary to ensure that the 300,000 potential floor stocks taxpayers would pay the proper amount of taxes.

ATF inspectors conducted over 5,000 inventory verifications in October and November 1985 to ensure that industry members would pay the proper amount of floor stocks taxes which became due in April 1986. As a result of these examinations, over $917,000 in increasing inventory adjustments and special occupational tax collections were made.

We also believe this high visibility effort deterred some taxpayers from illegally evading floor stock taxes and encouraged others to pay all that they owed. In-depth examinations of those taxpayers identified where potential noncompliance could have the most impact on revenue collections are currently being conducted. Two thousand of these examinations, thus far, have resulted in the collection of an additional $673,000 in excise taxes.

Alcohol Product Integrity

In FY 1985 and 1986, the Bureau learned that certain foreign wines might be contaminated with hazardous substances. ATF responded as a professional team: Headquarters and regional offices gathered information and organized field efforts, and field employees obtained thousands of imported and domestic wine samples for testing. As contamination was found by the ATF Laboratory in over 80 different brands of imported wines, ATF employees again acted quickly to ensure that as little of the contaminated wine as possible reached the consumer. Millions of wine bottles contaminated with diethylene glycol were recalled from the market to be destroyed or returned to the foreign producer.

To protect and inform consumers, communications were established with industry, media, and State representatives. Inquiries from all sources were quickly and accurately answered. We believe that this incident involving contaminated wines demonstrates the continued need for ATF's permit and label approval requirements to ensure our ability to enforce quick and appropriate responses to protect the American consumer.

Subsequently, we have redirected resources into this area to enhance the already existing market sampling program, i.e. additional laboratory equipment and increased sampling schedules, and created a Bureau Contamination Response Team to monitor each contamination incident and coordinate our response.

International Actions

The Bureau continues to play a major role in the U.S. Government efforts to reduce or eliminate international trade barriers impeding U.S. alcoholic beverage trade. For example, ATF's technical and scientific expertise was instrumental in the European Economic Community's (EEC) passage of revised regulations modifying the documentation requirement applicable to U.S. wines exported to the EEC. The modified requirements substantially reduced documentation costs and are expected to have a significant, positive impact on U.S. wine export trade with the community.

ATF has also been working very closely with the Office of the U.S.

Trade Representative, concerning the Wine Equity and Export Expansion Act of 1984, in efforts to overcome the trade barriers existing in those countries targeted by the U.S. as having significant market potential for U.S. wine. In this connection, ATF technical support has played a key role in U.S. initiatives leading to possible decisions by Japan and other targeted countries to reduce alcohol beverage tariffs and harmonize the technical requirements applicable to alcohol beverage.

In addition to its long-term efforts in international trade, ATF's role in dealing with the daily problems encountered by importers and exporters has brought about or maintained the flow of alcohol beverages into domestic or foreign commerce. ATF's knowledge of domestic and foreign laws has enabled importers and exporters to supply their products timely and economically.

Market Integrity

To enforce the trade practice provisions of the FAA Act, the Bureau aggressively investigates allegations of significant violations, with the intent of maintaining an open marketplace. We concentrate our efforts on those industry members engaged in illegal interstate activities, leaving the less complex, intrastate violations for State agencies to resolve. Indicative of the success of this approach during 1986, we accepted offers-in-compromise totaling $219,000 to resolve 28 cases.

For the past few years, we have held trade practice seminars throughout the country. The purpose of these seminars has been to increase the cooperation between ATF and State agencies and to increase the level of compliance by industry members. The 54 seminars held last year were very well received by both industry and State agencies.

TOBACCO PROGRAM

ATF's tobacco compliance program is similar to the qualification and revenue protection aspects of our alcohol program. We screen applicants for permits and conduct qualification inspections to ensure that only eligible persons likely to comply with regulations enter the industry.

Field employees conduct revenue examinations at tobacco products factories and other locations to verify that all excise taxes have been paid. In FY 1986, $4.6 billion in tobacco excise taxes was collected.

> ***Examination of an Export Warehouse (EW) in Miami, FL disclosed that sales of non-taxpaid alcohol beverages and tobacco products were being made by the permittee to non-permittees. Also discovered during the examination was an unreported change in officers and stockholders, which required them to file a new permit application. We are contemplating denial based on the applicant being not likely to operate in compliance with the law because of their dealings. This EW's permits were automatically terminated because of the unreported change of control and the new applications have been withdrawn by the applicant. In addition to possible indictment, permittee will be assessed approximately $658,000.***
>
> *Revenue examinations at 3 airport duty free shops in Puerto Rico, which are jointly owned, resulted in the collection of $160,000 of additional tax.*

FIREARMS PROGRAM

The Bureau's firearms program is based upon the Gun Control Act of 1968, Public Law 99-308 of 1986 and other statutes. Licenses are required to manufacture, import, and sell firearms. The intent of the statutes, and our qualification efforts, is to prevent statutorily prohibited persons from obtaining licenses. In FY 1986, our regional offices processed the following license actions: 313 applications were denied; 27 licenses were revoked; 5,692 applications were voluntarily withdrawn; and 633 applications were abandoned as a result of our requests for additional information.

A very important aspect of our firearms program is the support given to ATF special agents in their efforts to apprehend criminals and assist other law enforcement agencies. For this reason, inspectors frequently work with special agents in identifying criminals who purchase firearms and in investigating licensees who criminally misuse their license.

Inspectors also conduct compliance inspections of licensees previously identified as likely to violate the provisions of the firearms statutes. The purpose of these inspections is to prevent firearms dealers from making sales to prohibited persons and to ensure that a dealer's records are sufficient to trace the flow of crime guns when a law enforcement agency requires a firearms trace.

ATF CO and LE teamwork on year long joint projects paid off in a large seizure of firearms and ammunition in NYC. Search and arrest warrants were executed on an FFL. Seized were 400 firearms, 5,000 rounds of armor piercing 9mm ammo, silencer adapters, and miscellaneous other firearms paraphernalia. These joint projects were initiated in response to arrests (by both ATF and local NYC police) of three FFL's who were selling significant numbers of handguns without question or records.

During a compliance inspection at a Bristol, IN licensee's premises, a NCIC check on a suspicious Form 4473 disclosed a firearm purchased by a person with outstanding arrest warrants in several states for aggravated assault with a firearm. A referral was made to ATF LE which arrested the purchaser.

A licensee was identified as a major source of crime firearms in the St. Louis Metropolitan Area by ATF LE. Inspection disclosed record keeping and conduct of business violations. NCIC/TECS checks on purchasers revealed several dispositions of firearms to felons. Referrals were made to ATF LE.

ATF's regional offices are responsible for processing firearms license applications and for maintaining the Bureau's firearms records files. In 1986 there were 267,000 firearms licenses. Regional offices processed over 90,000 applications, of which 42,800 were first-time applicants and 47,200 were renewals. Regional offices also responded to numerous requests for information from law enforcement agencies concerning the license status of individuals.

The Bureau has been making administrative improvements in the way it handles firearms applications and fees. We have consolidated three of our seven regional firearms and explosives licensing functions into one highly automated location and instituted a "lockbox" for all firearms and explosives application fees. This consolidation and "lockbox" function is enabling us to more effectively respond to inquiries from law enforcement officials and act upon license applications more efficiently by allowing us to funnel all applications and fees to a reduced number of locations which, in turn, immediately deposit the money with the U.S. Government and then forward the application documents to the ATF office. The "lockbox" approach also saves over $100,000 a year in processing costs.

ATF is also responsible for enforcing the registration and revenue provisions of the National Firearms Act (NFA), a statute which regulates machine guns and gangster-type weapons. The Bureau has automated its

NFA registration files to handle registration information on over 280,000 NFA firearms and to act more quickly upon requests for information from law enforcement agencies.

As in other programs, the Bureau uses seminars for firearms licensees as a means of improving their understanding of and compliance with Federal laws. We actively involve State officials in presenting the seminars. Thirty-seven of these seminars were conducted last year and the response from the firearms industry has been very positive.

EXPLOSIVES PROGRAM

ATF's explosives program ensures that licenses and permits are issued only to eligible persons, that records are maintained in order to permit traces of explosives used illegally and that explosive materials are stored safely and securely. Regional office personnel review all applications for accuracy and initiate c.iminal records checks to prevent prohibited persons from receiving a license or permit. Inspectors examine explosives storage facilities before license or permit issuance to make sure that the facilities meet stringent Federal requirements. The following are two examples of how our explosives program ensures that explosives are stored safely.

> ***A compliance inspection conducted at a Oklahoma City, OK licensee disclosed 650 lbs of high explosives stored in violation of table of distance requirements. Necessary corrective action was taken immediately.***
>
> *An inspection at a Kansas City, MO black powder dealer/firearms licensee disclosed 150 pounds of black powder being stored on [illegible] shelves in the business area. They immediately [illegible] supplier as their approved indoor magazine already was [illegible]*

After a person is issued an explosives license or permit, ATF inspectors conduct periodic compliance inspections. These inspections ensure that the storage facilities continue to meet ATF safety and anti-theft requirements, and that sufficient records are maintained to enable law enforcement officers to trace the movement of explosive materials.

EQUAL OPPORTUNITY PROGRAM

Finally, but by no means least important, are our equal opportunity activities for the Bureau. Equal opportunity responsibilities are included

in the performance standards for all Bureau executives and managers who are responsible for implementation of the Bureau's affirmative action plan.

Despite periodic hiring restraints since 1979 and proposed abolishment of the Bureau in 1981, the Bureau has continued to make outstanding progress with regard to affirmative action. This progress is attributed to the continual and persistent support for minorities and women by all management levels within the Bureau. Of the 238 employees hired during FY 1986, 87 percent were minorities or women. The Bureau plans to continue aggressive recruitment, particularly for mainstream positions, that is special agent and inspector, to further enhance the employment profiles of minorities and women within the Bureau.

The Office of Equal Opportunity has assisted in recruiting qualified minority and female candidates to fill vacancies at all job levels. To this end, Bureau representatives have made numerous presentations at colleges and universities. In addition, the Bureau has continued community outreach, consistent with the President's Initiatives on Historically Black Colleges and Universities, and the Federal Equal Opportunity Program. In the first quarter of FY 1987, Treasury received direct hiring authority from OPM to fill approximately 250 new special agent positions. Bureau representatives actively solicited applicants to take the TEA examination given January 2, 1987, particularly at institutions with substantial minority and female representations. It is expected that this direct hire procedure will attract substantial minority and female candidates.

Finally, the Office of Equal Opportunity has worked jointly with the Office of Law Enforcement to implement an innovative Minority Impact Program to ensure the Bureau's commitment to full minority and female special agent representation and development.

Mr. Chairman, and Members of the Subcommittee, this completes my statement. I will be pleased to answer any questions you or members of your Subcommittee may have.

Mr. HIGGINS. The only thing I would like to add at this time is our sincere appreciation for your past support of our Bureau's mission and related programs. We sincerely believe we have used the resources you have given us in a professional and effective manner.

So, with that, we would like to just respond to questions.

Senator DECONCINI. Senator D'Amato, do you have some questions? Please, go ahead.

Senator D'AMATO. Mr. Chairman, thank you.

I am interested in this $15 million rescission involving 301 positions. What does that do to your Repeat Offender Program?

Mr. HIGGINS. We have started with the Armed Career Criminal Program, which is the one you are referencing. We have, I think, 18 task forces going in terms of selecting and targeting these types of individuals.

Obviously, with a cut of that magnitude, we would simply have to reduce or perhaps withdraw from that program because that is one of our newer programs. With a $15 million cut, we will probably have to go back, to where we were.

Senator D'AMATO. Well, how many cases do the agents initiate in that program annually? How many career criminals are involved in those cases?

Mr. HIGGINS. To date, we have completed cases which have resulted in indictments of 165 armed career criminals, and of that amount 95 have been convicted. In terms of overall case reduction, it would amount to a net reduction of 1,089 cases being initiated, and approximately 500 less defendants recommended for prosecution.

Senator D'AMATO. Can you give us a profile on the kind of defendant we are talking about?

Mr. HIGGINS. We have conducted a study of the kinds of people we are talking about in terms of the 512 defendants who would not be indicted. If that study is correct, and we believe it is fairly accurate, those 512 individuals would expect to be involved in 2,450 armed robberies, 3,600 burglaries, and over a 5-year crime cycle, which would not be unusual for them, they would be involved in 447,000 crimes.

We are talking about people who are not just the type of person who decides some day to rob a bank. We are talking about people who commit crimes, and sometimes multiple crimes, every day of their lives, and we think that statute is very valuable in terms of taking those people off the streets.

So the magnitude of the crimes represented by those potential defendants is enormous.

Senator D'AMATO. Well, let me ask you this: have you slowed up the hiring of people as a result of that proposed $15 million rescission?

Mr. HIGGINS. Well, we have taken what we consider a calculated but prudent risk. The hiring was slowed up by the nature of the way the system works in terms of the registers that are available to us. But we have recently obtained approval from OPM for direct hiring authority, and that will get by the procedural problems.

We have started hiring with the knowledge that if that rescission goes through, we are going to be in a bad way. To do otherwise was to ignore the funding that had been appropriated to us and we were not prepared to do that either.

Senator D'AMATO. I do not think that rescission is going to go through. Do you, Mr. Chairman?

Senator DECONCINI. I do not.

Senator D'AMATO. You know, it just seems to me that OMB—do we have anybody from OMB here?

[No response.]

Senator D'AMATO. Well, they will get the word anyway, but OMB has been using the technique, you know, of rescissions, deferrals, and announcing some kind of a request to delay spending.

Then everybody shudders and various departments then stop doing that which they are authorized by law to do. I would just hope that, in this important area of criminal law enforcement activity, you continue those efforts because I know they pay great dividends, particularly as you target the career criminal who is involved in all kinds of operations in the drug area, an area that the chairman and I are most concerned about. So we recommend that you continue doing that.

I have one or two other questions, Mr. Chairman, which I will submit for the record, but I think your targeting the career criminal and keeping your forces up is a very integral part of our overall effort.

CAREER CRIMINAL PROFILE

Mr. KEATING. Senator D'Amato, if I may postscript what Mr. Higgins said—Mr. Chairman, if I may—the average ATF defendant is not a first offender. As a matter of fact, a statement that I had available for the committee, and would hope it would be made part of the record, indicated that in the last fiscal year 57 percent of the ATF firearms defendants had a previous felony conviction; that is over one-half of them.

Seventy-seven percent had prior arrest records, and 41 percent were narcotics traffickers and 18 percent were armed on arrest. So these are not generally casual offenders or casual firearms offenders.

Senator D'AMATO. It sounds like a profile of our New York City——

Mr. KEATING. Yes, sir.

Senator D'AMATO. Thank you, Mr. Keating. Thank you very much, Mr. Chairman.

Senator DECONCINI. Thank you, Senator D'Amato.

Senator Domenici may have some questions. I know he has one question, in particular, that we will submit to you. Do you have a copy of that?

Mr. Mills. We have taken care of that, sir.

Senator DECONCINI. OK, you have taken care of that, so we can get that back for him.

ALCOHOL, TOBACCO, AND FIREARMS HIRING PATTERN

Senator DECONCINI. Mr. Higgins, your budget justification shows that for the past 3 fiscal years you will fall short of hiring up to your authorized ceiling. In fiscal 1986, you had 172 unfilled positions at the end of the year. In fiscal 1987, there were 173, and you are estimating 190 unfilled slots by the end of fiscal 1988.

I would like you to explain to the subcommittee how this has happened and what you are going to do about filling these positions. Quite frankly, do not the President's cuts in staff make some sense under these 3 years of unfilled positions?

Mr. HIGGINS. I will explain to you the background of that. Partially it appears that way because of the semantics—that is, authorized positions—which the Congress has been dealing with. We also get an allowance which is called our full-time equivalency position ceiling.

In looking at full-time equivalent ceilings for the last 6 years, two of the years we overrealized and spent more money on salaries than we were appropriated, but there is a reason for that.

In two other years, we were slightly below. One of those years was Gramm-Rudman when we had to save manpower in order to make up the across-the-board cut.

Senator DECONCINI. Well, that was 1986, right?

Mr. HIGGINS. Yes; we now have a letter from the committee which clears up the question about what the committee intended when they said authorized positions, whether they mean that to be full-time equivalent positions or authorized positions. You have given some guidance on that which we will be adopting.

The second year we were below was due to the hiring system, and I alluded to that earlier to Senator D'Amato. When we got approval, and this year is a good example, to begin hiring the additional positions that Congress had given us, we found it was like going to the cupboard and finding it bare.

We went to the Treasury enforcement register. It was practically bare because Customs was doing a lot of hiring from the same registers. We then went to OPM and asked their permission for direct hiring which would allow us to do essentially our own recruiting with certain standards and guidelines. OPM has now provided us that and we are hiring full time. We can use the personnel.

We also have this year the same kind of thing that Senator D'Amato alluded to hanging overhead: That is, whether or not we were going to get a rescission, and, therefore, we were being careful.

Senator DECONCINI. You will be able to fill the 1987 positions?

Mr. HIGGINS. We hope to have all the positions filled. That does not necessarily mean we will have used the man-years because we will be hiring them as the year goes on.

Senator DECONCINI. Will that affect your 1988 request at all?

Mr. HIGGINS. Well, it affects it from the standpoint of how much funding we receive for 1988, to be honest with you.

Senator DECONCINI. Well, there were 173 and you estimate 190 unfilled slots by the end of fiscal year 1988. If you get onboard here in 1987, like you are moving ahead now with the clarifications you gave us, how is that going to affect the estimated 1988 unfilled slots? Do you have any idea?

Mr. HIGGINS. If we fully hire up this year, and receive the requested funding for 1988, we should be able to realize all the man-years.

Senator DECONCINI. Well, you are saying you will not have 190 unfilled slots, then, for 1988?

Mr. HIGGINS. No; we will not have any.

Senator DECONCINI. Yes.

Mr. HIGGINS. In fact, we may have some overfill.

OPERATION ALLIANCE COMMITMENT

Senator DECONCINI. Did you know this committee directed ATF, within its available resources, to participate in the Southwest border drug task force, Operation Alliance?

Mr. HIGGINS. Right.

Senator DECONCINI. Can you tell us what you are doing there, how many people you have assigned, and how many people, totally, will be assigned to that operation?

Mr. HIGGINS. Yes; we have committed 25 people to that operation since last year. We have committed this year to spend approximately $1.3 million this fiscal year. We have assigned a full-time coordinator who works out of Houston and then the rest of the commitment is from the district offices along the Southwest border.

We are playing a very supportive role, basically supporting DEA, INS, and Customs. We have had some good results so far. We have initiated 269 investigations, recommended 172 defendants for prosecution, and have seized in excess of 680 machineguns, silencers, and other types of devices.

So in that limited period of time that Operation Alliance has been ongoing, the initial results from our supportive efforts have been good, and I believe Mr. Keating would share that opinion.

Senator DECONCINI. What is your maximum number of personnel that will be assigned to that?

Mr. HIGGINS. Twenty-five.

Senator DECONCINI. Is that it?

Mr. HIGGINS. Yes.

Senator DECONCINI. You have already done what you are going to do?

Mr. HIGGINS. Yes; we have done that. The personnel are in place and working, and they are trained agents.

Mr. KEATING. Senator, I might say that as Alliance was put together, I sat down with Mr. Higgins, as well as all the other bureau directors not only within Treasury but within Justice, to determine how many people the caseload would warrant that we anticipated; of course, a significant increase in cases.

We struck the 25-position bargain at that time and what Mr. Higgins is attempting to do now is to fill those positions once they are hired.

Senator DECONCINI. Well, Mr. Keating, it is too early to indicate success, but it appears that your travels and your efforts to bring in local law enforcement at least thus far are proving beneficial to that tremendous effort that you are making and coordinating.

Mr. KEATING. Thank you, sir.

Senator DECONCINI. And I would only urge that you not drop this effort because it is too hard to get it going, and right now you seem to have it going. I hope you can maintain that. If you lose it, in my opinion, you are going to be in big trouble and we are going to have to ask some awful embarrassing questions of what happened.

Mr. KEATING. Mr. Chairman, I might note in that regard that the Attorney General was in Tucson Monday and Tuesday of this week.

Senator DECONCINI. Yes; I know.

Mr. KEATING. He requested our joint command group—and, of course, as the chairman of the subcommittee, I requested them as well—to provide to us within 30 days the commitment of resources from all the Justice bureaus and non-Treasury bureaus, something that we have not been able to obtain, the exact numbers of people who will be committed to Alliance.

Senator DECONCINI. Will you have that within 30 days?

Mr. KEATING. Within 30 days, that is correct, Senator.

Senator DECONCINI. Of Monday when he was asked?

Mr. KEATING. Yes; that is correct. We expect, at least at this morning's drug policy working group, if it is of any degree of accuracy, some 1,000 border patrol agents will be applied to that initiative as well.

Also, we have requested that we have a positive statement of involvement for State and local government. Right now, they have, as you have indicated, been willing to perform, willing to involve themselves.

But we intend now, since they represent a big chunk of our joint command group, to have them participate operationally, and that plan will also be developed within the next 30 days.

We hope that at least your suggestions that we are going to be successful will, in effect, pan out.

COMPLIANCE OPERATIONS EXPLOSIVES PROGRAM

Senator DECONCINI. Yes; thank you.

Mr. Higgins, you are requesting a budget of $3,271,000 and 58 positions for explosive compliance operations in fiscal year 1988, an increase of about $327,000, but no new positions. In fact, staffing for this activity has dropped from 100 in 1986 down to 58 next year.

Almost all the workload data that you provide on pages 17 and 18 of your blue sheets show relatively flat activity, comparing 1987 with 1988, with the one glaring exception of explosive applications processed, which jumped 127.3 percent over 1987 levels.

To what do you attribute this dramatic increase in explosive applications and how will you deal with the increase with no increase in explosive compliance staff?

Mr. HIGGINS. Bill, I am going to have to request your response in terms of the large increase.

Mr. DRAKE. The increase is probably related to the fireworks activity that we are involved in and the manufacturers of fireworks that are coming through for the increases.

For the flat, I am not sure I can answer that, to be honest with you. I have to get back to you, Senator.

Mr. HIGGINS. Let us provide that for the record.

Senator DECONCINI. That is fine.

[The information follows:]

EXPLOSIVE APPLICATIONS

The large increase you refer to is in the number of applications processed, not the number of actual explosives licensees/permittees. The large increase in the number of explosives applications is caused by a bulge in renewal applications by current licensees/permittees. In September 1981 ATF began issuing all renewal explosives licenses/permits for a 3-year period rather than a 1-year period. This was done to reduce paperwork and costs for both ATF and the industry. This change resulted in a large bulge in renewal applications every third year when the licensees/permittees in business in fiscal year 1982 renew. While this bulge will tend to be less severe as the years go by, it will remain noticeable through several more 3-year cycles (bulge years: fiscal years 1985, 1988, 1991, et cetera). There is very little additional field workload when this occurs as these industry members have usually had recent field inspections, therefore, their renewal applications can be processed with only an office review.

COMPLIANCE OPERATIONS EXPLOSIVES PROGRAM

Senator DECONCINI. Maybe we misinterpreted it, but I do not think so. On page 18, you show a jump in this area of 127.3 percent—do you have page 18 in front of you?

Mr. HIGGINS. I can get it.

Senator DECONCINI. Do you see the figure?

Mr. DRAKE. I am not sure I do, Senator.

Senator DECONCINI. Page 18 of your blue sheets at the top there under D, it says "Explosives." It says "Applications processed." Do you see that?

Mr. DRAKE. I have got that.

Senator DECONCINI. 3,300, and then estimated for 1987, 7,500.

Mr. DRAKE. I cannot answer you, Senator. I will have to get that to you.

Senator DECONCINI. All right, fine, if you could tell us that. You know, firecrackers—that is a lot of firecrackers.

Mr. HIGGINS. That is a lot of new applications.

Senator DECONCINI. Yes; that is fine; you can submit that to us.

ATF'S ARSON PROGRAM

Mr. Higgins, BATF has a well deserved reputation for being the expert among law enforcement agencies in the area of arson investigation. BATF sponsors training classes in postblast analysis for State and local police and fire officials.

Recently, ATF's national response team was sent to Puerto Rico to determine the cause and the origin of the Dupont Plaza Hotel fire and to aid local officials in arresting those who were responsible, and my compliments to you. It appeared to me, at least from observing it in the news media and what have you, that you really did a good job and you were quick to respond to it, and I want you to know that this Senator applauds that and compliments the fine people you have.

With the budget proposed by the President, what will you be able to do to train State and local officials in the investigation of arson, and what will you be able to do to expand your national response team?

Mr. HIGGINS. Given the budget that we are proposing, we will simply not be able to do any expansion. We believe the training expenditure is adequate, regardless, because in the long run I think that saves us all resources by making these people better prepared in terms of the way they handle things.

So, to the extent possible, we will try to continue training as much as we can, but there simply are not any funds for expansion.

Senator DECONCINI. So you can maintain the present training that you are doing this year with what is there?

Mr. HIGGINS. I am not sure we are going to be able to do as much as we have been doing.

Senator DECONCINI. So you may have to do less?

Mr. HIGGINS. We will try to do as much as possible, but I am not sure we can do it all.

Senator DECONCINI. Well, to be fair to you, would you mind giving us an estimate of what you might have to cut out based on the 1988 request?

Mr. HIGGINS. Sure.

Senator DECONCINI. And would you also give us what it would take to do a modest expansion, if you had your druthers?

Mr. HIGGINS. Sure. It is a bureaucrat's dream. [Laughter.]

Senator DECONCINI. Well, I do not mean a wish list; I mean just your druthers.

[The information follows:]

ATF TRAINING/RESPONSE TEAMS

Most funding for ATF training to State and local officials is provided by the Federal Law Enforcement Training Center at Glynco, GA. State and local officials reimburse FLETC. Therefore, the level of training provided is dependent on the FLETC appropriation and the ability of State and local officials to pay the tuition.

Additionally, State and local training is dependent on ATF having available instructors. Congress provided funding and authorized 301 additional positions to the Bureau for fiscal year 1987 which are not included in the fiscal year 1988 budget. Of these reductions, 200 positions are in the Office of Law Enforcement which provides the training for State and local officers. Also, in fiscal year 1988 the Secret Service has indicated that up to 750 ATF special agents may be utilized for Presidential candidate protection service at any one time. Although there is no direct programmatic reductions in training or national response teams, the reductions of 200 special agents in the firearms and tobacco programs in fiscal year 1988 from our fiscal year 1987 level will require across-the-board reductions in services in all programs.

Only larger municipalities or departments are able to incur the cost of tuition and expenses to attend schools at FLETC and to release a person from duty for 2 weeks to attend the ATF school at that facility. To correct this, ATF is providing a 3-day ATF-funded version of the ATF arson school throughout the United States. To increase the availability of this school, an additional $120,000 for supplies and logistics and $375,150 to support five FTE's would be required.

As to our national response teams, the demand on these units has increased significantly over the past 3 years. Abortion clinic violence has impacted the entire ATF explosive and arson programs. For example, 193 personnel were utilized and $851,447 expended on the series of abortion clinic bombings in Washington, DC, in 1984. All cases were solved. in late 1986 and early 1987, 57 special agents investigated four bombings or attempted bombings of abortion facilities in New York City. On February 24, 1987, Dennis John Malvasi was arrested by ATF for these incidents. The national response team was successfully used in the recent Dupont Plaza fire in San Juan. A conservative cost for this investigation, thus far, is $220,000. As a result of these increased demands, an additional $10 million to support 112 FTE's could be utilized to meet the needs of ATF's Explosive Program and national response teams. Presently ATF has a fleet of 20 national response vehicles located throughout the United States. An increase of $190,000 could be used to upgrade the investigative equipment of these vehicles. To shorten national response team response time additional vehicles would be required. A fully equipped vehicle has an average cost of $99,500. Ideally, eight additional vehicles would insure satisfactory logistics.

THREE-YEAR APPLICATION CYCLE

Mr. DRAKE. Senator, can I come back to your question on page 18?

Senator DECONCINI. Yes.

Mr. DRAKE. You really caught me on a curve on that. That is not a new application for a new licensing. We went to a 3-year application cycle about 4 years ago. In other words, every licensee, rather than renewing every year, renewed on a cycle.

This year is catching up with it. This is the year where those who were on the third year from the first year we made the change—this is their third year.

Senator DECONCINI. Does that account for all of them, or 90 some percent?

Mr. DRAKE. There is always an increase. Our population is growing all the time.

Senator DECONCINI. Just out of curiosity, can you tell us what the increase will be, if you take out this renewal? Will you do that for me?

Mr. DRAKE. Sure.

Senator DECONCINI. Thank you.

[The information follows:]

INCREASE IN LICENSEES/PERMITTEES

While the explosives industry is the most stable, as to numbers, of all the industries that ATF regulates, its numbers do show an increase from year to year. The increase in licensees/permittees from fiscal year 1985 to fiscal year 1986 was 665, or 7 percent. Because of this fact, the increased number of applications, discounting the bulge factor was approximately the same—700.

Mr. DRAKE. You scared me with that number; I could not handle that number.

Senator DECONCINI. I could not either. Bob could not, and I agree with him.

Mr. DRAKE. We will probably see the same thing in firearms. We are in a 3-year cycle there, too, and that is going to catch us one of these days.

Senator DECONCINI. OK, great. I am just interested to see what the actual growth is, not the renewal, if you will, please.

Mr. Higgins, thank you very much. We will excuse you and your people. Thank you, gentlemen, very much.

There will be some additional questions from various Senators which we will submit to you for your response.

Mr. HIGGINS. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Additional Committee Questions

ORIGINAL REQUEST TO OMB

Question: Mr. Higgins, you are requesting $197,226,000 and 3,000 permanent positions in Fiscal Year 1988 -- a cut of about $4 million and 351 positions below the enacted Fiscal Year 1987 level. What was the Bureau's original request to the Office of Management and Budget; where did they cut you back; and why? Be specific.

Answer: The Bureau's original request to OMB was $198,889,000 2,962 full-time equivalent (FTEs) and 3,274 permanent positions. Subsequent to this submission, OMB requested our funding estimates for the annualization of the January 1987 pay raise in FY 1988 as well as the impact of the Bureau's contribution to the new Federal Employees' Retirement System (FERS). The revised funding request to OMB then became $213,987,000, an increase of $15,098,000.

OMB's final allowance required the following reductions:

- $4,238,000 for maintaining the current operational funding level provided for in FY 1987. OMB denied this increase mainly to eliminating inflationary increases as projected by OMB.
- $1,843,000 and - 45 FTE positions from the Compliance Operations Alcohol Program for increased emphasis on floor stocks tax evasion, targeted noncompliance areas, product contamination.
- $335,000 and - 8 FTE positions from the Compliance Operations Explosives Program for increased examinations of explosives storage facilities specifically fireworks manufacturers.
- $208,000 from the TECS II Law Enforcement communications system.
- $1,663,000 and - 24 FTE positions from the Law Enforcement Armed Career Criminal program.
- $2,226,000 and - 22 FTE positions from the Law Enforcement for Operation Alliance as well as further develop the ARMS and EXIS-II data bases.
- $294,000 and - 6 FTE positions from the Law Enforcement Firearms Tracing Center to microfiche the severely backlogged and continually growing out-of-business firearms dealer records.
- $1,358,000 to purchase Law Enforcement police-type vehicles.
- $569,000 and - 11 FTE positions, a mandated OMB directive to increase productivity.
- $250,000 for Law Enforcement permanent-change-of-station moves for agent relocations.
- $3,737,000 composed of $1,000 for the Federal Employees' Retirement System and the full absorption of $3,736,000 for the January 1987 pay raise annualization in FY 1988.

In total, OMB reduced the Bureau's FY 1988 request by 116 FTE positions and $16,761,000. Other than what is noted above, OMB did not provide the Bureau with specific reasons for their reductions.

IMPACT ON NO FERS AND PAY RAISE SUPPLEMENTAL

Question: Like many of our agencies under this Subcommittee, BATF did not receive any supplemental budget request to cover its pay raise and FERS cost in the current fiscal year. My information

is that you will therefore have to absorb $2.7 million for the pay raise and $3.4 million for FERS for a total of $6.1 million. Could you tell the Subcommittee what will be the specific effect on BATF programs if you are forced to absorb these mandatory costs in fiscal year 1987? Tell us what particular programs will be hit the hardest and what effect it will have on the Congressional enhancements provided to ATF last year.

Answer: The absorption of $6.1 will reduce all hiring provided to us through your FY 1987 Continuing Resolution. Specifically, the Compliance Alcohol and Law Enforcement Firearms Programs will be hit the hardest. In addition, the TECS II communications system may be deferred as well as cancellation of our police type vehicle order which was placed in the first quarter of this fiscal year.

TECS II ENHANCEMENT

Question: Your only program increase for fiscal year 1988 calls for $3,478,000 and 7 new positions to start a 2 year project to begin the process of converting over to the newly established Treasury Enforcement Communications System (TECS II) that is being redesigned by Customs. Can you tell us a little bit about what your fiscal 1988 TECS II initiative will do and what the BATF's outyear cost will be of converting TECS II? (TECS is the primary Treasury law enforcement data system used by all Treasury enforcement agencies, except I believe Secret Service).

Answer: This project will enable acquisition of a new mainframe, software, and other peripherals necessary to interface with the TECS II mainframe operated by the U.S. Customs Service. The present TECS 1 system will cease operation commencing October 1, 1987, FY 1988, necessitating ATF's acquisition of hardware and software compatible with the new mainframe. The Bureau will also acquire approximately 250 personal computers, printers and software. This acquisition will allow all ATF special agents to input information directly into the mainframe for quick, easy and reliable retrievability of information necessary for the operation of a professional and state of the art law enforcement agency. Special agents will be able to query TECS "subject record files," NCIC, NLETS and ATF databases for investigative leads. In addition to the above databases available on TECS, the databases of other Federal agencies such as INS, Customs and the Department of State will be available to ATF through database interfaces and/or batch loaded information.
The anticipated outyear costs for converting to TECS II are $3.8 million for FY 1988, $2.0 million for FY 1989, $1.5 million for FY 1990 and $1.6 million for FY 1991.

EXPLOSIVES IDENTIFICATION AND DETECTION RESEARCH AND DEVELOPMENT

Question: For about 7 years, the Appropriations Committee has been earmarking funds for research and development of an explosive identification and detection device. As you know, part of my Anti-Terrorist Training Act of 1986 which I introduced last year, called for such devices at international airports between the check in counter and the aircraft. I also have recommended additional money for your agency to accelerate the development of explosive "sniffers." Where are we with this research? What have you found

out for the past 7 years about this technology and how close are we to having a unit that can be effective and affordable?

Answer: The Bureau effectively phased out and halted all expenditure of funds for research and development in this area in FY 1982 - 1983. However, ATF is an active participant in the research and development on pre-blast explosive detection technology, a program which is pursued under the overall guidance and leadership of the Federal Aviation Administration. We currently utilize such technology at our National Laboratory in Rockville, Md. The biggest obstacles to making this type of equipment available for broad security application is its large size, its weight, and its delicate circuitry. Work in these areas is containing, and we are optimistic over the potential for ultimate success.

GUNS/DRUGS CONNECTION

Question: There is little doubt among experts that there is a strong relation between the groups that run drugs and those that run guns and explosives. What specific cases can you point to that corroborates this dangerous connection, particularly in the southwest and, as a member of the Organized Crime Drug Task Force and what effect are you having in attacking groups that traffic drugs and guns?

Answer: Because of the proclivity for the violent misuses of firearms and explosives exhibited by narcotics violators, ATF agents pursuing firearms and explosives investigations come into almost daily contact with narcotics violators. By coordinating our investigative efforts with other Federal agencies and State and local narcotics enforcement units, ATF is making a meaningful contribution to the ongoing war against illegal drugs in this country.

During Fiscal Year 1986 ATF agents assigned to the Organized Crime Drug Enforcement Task Force (OCDETF) Program, initiated 559 investigations and submitted 315 criminal cases, recommending 450 OCDETF targets for prosecution. Also worthy of noting, is the fact that in this fiscal year, ATF participated in approximately 40 percent of all OCDETF investigations. The following ATF investigations illustrate the correlation that exists between those groups that traffic in drugs as well as firearms and explosives:

On October 14, 1986, an 18 month ATF investigation culminated in Laredo, Texas with the indictment of 39 individuals who had been involved in illegally diverting firearms to Mexico. Seven of those indicted were Federal firearms licensees (FFL's) who had been procuring and paying individuals to falsify Form 4473's by alleging to be the purchaser of the firearm, when in fact the licensee was selling the firearms at inflated prices to Mexican nationals. This procedure has resulted in the illegal diversion of at least 7,500 firearms to Mexico. Additionally, it is strongly suspected that this group has diverted an additional 2,000 to 3,000 firearms to Mexico.

On October 30, 1986, four members of the notorious El Rukn drug trafficking organization were indicted on charges of conspiracy, possession of weapons, and use of interstate facilities to carry on unlawful activities. Between March 1986 and October 30, 1986, the

defendants, in furtherance of the conspiracy, deal with representatives of the government of Libya in an effort to obtain money in exchange for the commission of violent acts in the U.S. on Libya's behalf. In their efforts to promote and carry on their alleged illegal activities, the conspirators acquired illegal firearms, including machineguns, silencers, handgrenades and M-72 Series light anti-tank weapons commonly know as LAW rockets.

On June 29, 1986, ATF special agents, in conjunction with DEA and the Los Angeles Police Department, executed six arrest warrants and two consent searches that resulted in the seizure of approximately 70 kilos of cocaine, six handguns, three rifles, three shotguns, and over $150,000 in cash.

These arrests were the culmination of an investigation that involved a Bolivian police official soliciting a DEA and ATF undercover agent to travel to Santa Cruz, Bolivia, to pick up 500 kilograms of cocaine. During the course of the investigation, the individuals involved delivered currency and cocaine to the undercover agents in order to finance the trip to Bolivia.

During the undercover phase of an OCDETF investigation, a total of 112 firearms were purchased by undercover agents. Forty-one of these weapons were stolen and another 19 were either machineguns, sawed-off shotguns, sawed-off rifles, silencers or destructive devices. In addition, cocaine, marijuana and other drugs were purchases. As a result of an ATF directed undercover operation, 13 Federal arrest warrants, 9 Federal search warrants, 14 State arrest warrants and 4 State search warrants were executed. During the execution of the search warrants, an additional 82 firearms were taken into custody of which eight were machineguns, ten were sawed-off shotguns or rifles, and two were silencers. In addition, 203 blasting caps, 15 explosives boosters, 65 handgrenade shells, 20 handgrenade fuses, and 21 35mm practice rockers were also seized.

Questions Submitted by Senator Pete V. Domenici

BIENNIAL BUDGET CYCLE

Question: Calls for budget reform are increasingly heard as budget deadlines are too oFTEn missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the 2-year budget cycle where budget and appropriations matters would be considered in the first year, and authorizations and oversight would be undertaken in the second year. Would your Bureau favor a biennial budget process? What benefits would your agency achieve in a 2-year appropriation cycle?

Answer: A biennial appropriation cycle would definitely benefit the Bureau. As funding requirements are formulated, it is difficult to deal in one fiscal year as a separate submission since the following budget year is impacted especially when the budgetary bases can become drastically different and there seems to be no continuity from year to year.

Question: Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Answer: The entire annual budget submission is in the identical format each year. Therefore, the majority of the request would be repetitious. The only change from year to year is the Bureau's program enhancement level.

Question: What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

Answer: The only difficulty is not being able to forecast unknown requirements that could impact each of those fiscal years. This would most probably lead to requests for pay and program supplementals and amendments under those circumstances.

FY 1987 ADMINISTRATION REQUEST

Question: What effect will the Administration's proposed fiscal year 1987 rescission of $15 million and 301 positions have on your programs?

Answer: The rescission will virtually halt new hiring and have a major impact on the Compliance Operation's Alcohol Program, and Law Enforcement's Tobacco and Firearms Programs. Specifically in the Firearms Program current resources devoted to the Armed Career Criminal project and Operation Alliance will be severely impacted.

Question: Doesn't this proposed rescission match the amount Congress appropriated above the President's requested FY 1987 level?

Answer: Yes.

Question: In addition to the proposed rescission, no supplemental funds are requested to cover your additional pay raise and retirement costs in fiscal year 1987. How much are these costs and what programmatic reductions are being made to offset the absorption of these costs?

Answer: The direct pay raise requirement for FY 1987 is $2,693,000. The projected FERS requirement is $3,428,000. If the rescission is approved this month, BATF will commence a selective hiring freeze which will impact all program areas.

OPERATION ALLIANCE/DRUG TRAFFICKING

Question: Would you please give this subcommittee a status report on your participation in support of Operation Alliance?

Answer: In the FY 1987 Continuing Resolution budget, ATF was specifically funded for increased staffing to participate in the Southwest border task force along with U.S. Customs and other Federal, State and local agencies. This funding enabled ATF full participation in this operation with enhanced and specific enforcement efforts to accomplish its objectives.

Question: What successes have you had as a result of Operation Alliance?

Answer: ATF has played a significant and vital role in Operation Alliance, thus far initiating 325 investigations into illegal arms trafficking or armed drug traffickers and recommending 238 defendants for prosecution. We have also seized in excess of 780 machineguns, silencers, destructive devices and other firearms as a result of Operation Alliance investigations.

Question: What level of resources did you give in support of Operations Alliance in fiscal year 1987? What level of resources will go in support of that initiative in fiscal year 1988?

Answer: In FY 1987, ATF is dedicating 25 staff years to Operation Alliance including one full time coordinator stationed in Houston, Texas. ATF's FY 1988 budget request does not provide for specific funding or staffing to support ATF's continued involvement in Operation Alliance. ATF will continue to evaluate the effectiveness of the Alliance Operation and the availability of resources and make a decision on its continuance.

Question: Of the firearms cases you have initiated, how many involved drug traffickers?

Answer: In FY 1986, 62 percent of the defendants recommended for prosecution by ATF were involved in narcotics. Specifically, eight percent were DEA class I or II violators; 27.4 percent were narcotics traffickers and 26.2 percent were narcotics users. All firearms cases initiated in Operation Alliance are directed toward traffickers.

ATF AGENTS DETAILED TO THE SECRET SERVICE FOR CAMPAIGN '88

Question: How many ATF agents are being requested to aid the Secret Service in Campaign' 88 protection? What impact will this have on the ATF's operational programs?

Answer: The Secret Service has requested to train 750 ATF special agents for Campaign '88 protection. They have indicated 250 of these agents will be utilized for rotating 21 day candidate security details; 350 will be used on 21 day rotating jump team and residence security details and 150 will be used as local post standers.

The impact on all ATF programs will be substantial. At this point we are estimating that as a result of our Secret Service commitment, approximately 800 criminal cases will not be initiated and approximately 400 defendants will not be recommended for prosecution.

STATE AND LOCAL TRAINING

Question: You mention in your statement that ATF offers a popular State and local training course in advanced arson-for-profit investigations, who pays for this course?

Answer: Most funding for ATF training to State and local officials is provided by the Federal Law Enforcement Training Center for training at their facilities. State and local officials, in

turn, offset the cost to FLETC through the payment of tuition fees to FLETC. The Bureau of Alcohol, Tobacco and Firearms provides course instructors and therefore incurs costs for the staff which plans and implements course instruction.

COORDINATION WITH THE FBI

Question: I realize that terrorism is the FBI's jurisdiction, but it appears ATF has the expertise in the bombing area, investigations, laboratory support and technology. Do you assist the FBI in terrorism cases. If you do not, shouldn't you?

Answer: ATF has been involved in the investigation of bombing incidents since the passage of the Explosives Control Act of 1970. During this time, we have developed an unparalleled expertise in conducting post-blast investigations.

The ATF Laboratory is considered to be among the most advanced in the world in the area of explosive investigation. This expertise has been developed through our involvement in the investigation of more than 90 percent of the bombings where there is Federal interest.

ATF has the primary responsibility for all criminal bombings except in those instances where jurisdiction has been specifically given to the U.S. Postal Inspection Service or the Federal Bureau of Investigation. The FBI has jurisdiction in bombings where terrorism is involved.

We have worked very closely with the FBI and Postal Inspectors in many bombing incidents. While a memorandum of understanding delineates jurisdictions in explosives incidents, we are prepared to assist the FBI in any terrorist bombing. Terrorism is a problem that requires a total cooperative effort.

COMPLIANCE

Question: What is BATF's ability to assure compliance with records of firearms' dealers?

Answer: As there are approximately 270,000 firearms licensees, ATF must take a limited approach in assuring compliance with record requirements by these dealers.

ATF has the resources to inspect only about 4.5 percent (approximately 12,000) of these dealers annually. Because of this, the firearms compliance program is one of highly selective inspections of licensees which are most likely to have violations or to be involved, willingly or unknowingly, in selling weapons which later turn out to be crime guns. This effort is supplemented by an active seminar program to educate and involve as many licensees as possible for the resources expended.

As the records of firearms licensees are the sole means to trace crime guns, the proper maintenance of these records is an essential link in all law enforcement efforts. We believe that our efforts do increase compliance at dealers desiring to conduct business legally and also greatly assist law enforcement in their efforts to control firearms related crimes. However, we realize that our ability to

assure compliance with recordkeeping requirements throughout the industry while inspecting less that 5 percent of its members is limited.

Question: What is BATF's ability to assure levels of tax compliance?

Answer: ATF has historically maintained an extremely high level of tax compliance in the alcohol and tobacco excise tax areas with somewhat less success in areas such as floor stocks taxes and especially in the special occupational tax (SOT) area.

We believe that high level of compliance in the excise tax areas is directly related to our presence in the production levels of these two industries. This belief is supported by the markedly reduced compliance level at the alcoholic beverage retail level for SOT and floor stocks tax and at both the wholesale and retail level for tobacco products in floor stocks tax. At these levels in both industries ATF maintains little or no presence. We have also detected signs of erosion in tax compliance level at the production levels in these industries during a time when the tax control system was changing and ATF was losing resources.

We should note that late in FY 1986 Congress appropriated a one-time $500,000 supplemental for ATF to use for an enhanced SOT collection program. This program has already generated over $1 million in additional SOT and is continuing.

While ATF is proud of its accomplishments in collecting over $10 billion annually in alcohol and tobacco excise taxes with a compliance budget of less than $55 million (FY 1986) we do note that even extremely small drop in non-compliance levels means very large tax losses. Only a 1 percent drop in the compliance level in this area means about 100 million in revenue losses.

FEDERAL ALCOHOL ADMINISTRATION ACT

Question: The Federal Alcohol Administration Act is 1930's legislation. Have you ever proposed amendments to the Act to bring it more into line with today's society? What changes would help you do a better job?

Answer: ATF has attempted, and will continue to attempt, to update and modernize the FFA Act and related regulations. The FAA Act is a complicated, detailed, and encompassing piece of legislation. Several years ago we started the process of recommending legislation that would update and modernize the FAA Act. We have, to date, developed nine draft packages and still have not been able to reach a consensus among the three levels of the industry, various state governments, and the Federal government. In the meantime, we are using the somewhat limited discretionary authority in the Act to modernize, add, or eliminate some regulations that are inconsistent with current events.

"WHAT IFs"

Question: If your fiscal year 1988 appropriation was "frozen" at this fiscal year 1987 funding level, what impact would that have on your agency?

Answer: The FY 1988 President's budget includes $19.6 million to maintain a staffing level of 2,846 average positions for FY 1987. Of this amount, $15.1 million is needed to meet the January 1987 pay raise and fund the new Federal Employees Retirement System. If the total maintaining current level funding request is denied, the Bureau would be forced to reduce staffing by approximately 600 positions. This would substantially reduce the Bureau's ability to enforce its basic Law Enforcement and Compliance Operations missions and would not allow ATF to address the specific Congressional concerns associated with the enforcement of the Comprehensive Crime Control Act, would force our withdrawal from actively participating in the southwest border task force, and would jeopardize our ability to strengthen the revenue protection program. The overall impact will culminate in the potential loss of revenue related to uncollected taxes and diminished public safety.

Question: If budgetary constraints were not a consideration, what enhancements would you recommend above the President's requested level for fiscal year 1988?

Answer: The approved President's budget for FY 1988 included 2,846 average positions and $197.2 million to support the Bureau's overall mission. Based on this hypothetical question, ignoring the ultimate goal of the Administration which is to balance the Federal budget, the Bureau would request an increase of 305 average positions and $26.0 million in order to more effectively enforce the statutory responsibilities entrusted in us by Congress. The revised FY 1988 request would total 3,151 average positions and $223.2 million.

HISTORICAL DATA REQUEST

Question: Would you please provide the subcommittee with a comparison of staffing levels and workload from fiscal year 1979 to the present?

Answer: In response to your request, we have prepared the historical chart listed below.

Fiscal Year	Staffing	Inspections	Investigations Initiated
1979	3,928	35,656	13,091
1980	3,809	30,138	13,149
1981	3,637	27,677	12,037
1982	2,942	13,848	10,365
1983	2,780	15,049	10,606
1984	2,929	21,866	9,065
1985	2,968	23,760	11,338
1986	2,876	26,746	9,323
1987 est	2,850	19,475	9,592
1988 est	2,846	19,475	8,747

FEDERAL LAW ENFORCEMENT TRAINING CENTER

STATEMENT OF CHARLES F. RINKEVICH, DIRECTOR

ACCOMPANIED BY:

FRANCIS A. KEATING II, ASSISTANT SECRETARY (ENFORCEMENT)
R.J. MILLER, DEPUTY DIRECTOR
WILLIAM M. KELSO, ASSISTANT DIRECTOR, OFFICE OF ADMINISTRATION
JOHN C. DOOHER, ASSISTANT DIRECTOR, WASHINGTON OFFICE

PREPARED STATEMENT

Senator DECONCINI. We now go to Charles Rinkevich, the Director of the Federal Law Enforcement Training Center, and his associates.

Mr. Director, your full statement will be placed in the record. We welcome you here and commend you for the fine job you are doing at Glynco, Marana, and other places, and we look forward to you summarizing your statement. You may proceed.

[The statement follows:]

STATEMENT OF CHARLES F. RINKEVICH

Mr. Chairman and Members of the Committee, I am pleased to be here today to report on the operations of the Federal Law Enforcement Training Center and to support our appropriation request for Fiscal Year 1988.

At this time, I would like to introduce the representatives of the Center who have accompanied me: R. Joe Miller, Deputy Director; (Mr. Miller has been appointed Deputy Director since my last appearance before this Committee and I am pleased to introduce him to you today. I would like to submit, for the record, his complete biography); William M. Kelso, Assistant Director for Administration; and John C. Dooher, Assistant Director for our Washington Office.

As you know, the Center's mission is to provide quality Basic and Advanced training for the majority of the Federal government's law enforcement personnel and to provide training for State and local law enforcement personnel in specialized areas. Throughout the years, the Federal Law Enforcement Training Center has become known as a high quality and efficient training organization with a "can do" attitude and "State-of-the-Art" programs and facilities.

During my association with the Center over the past four years, I have developed a deeper appreciation for the advantages of consolidated training for Federal law enforcement personnel, not the least of which is an enormous cost saving to the Government. In this regard, using the projected workload for FY 1988, we anticipate that the Government will avoid $50 million in per diem costs alone by comparing the use of Glynco against other large cities.

PARTICIPATING ORGANIZATIONS

Personnel from 60 participating organizations attend training at the Center on a regular basis. In addition, we receive requests

from other Federal agencies; and although we cannot always provide this training on demand, many of these other organizations have taken advantage of the Center's programs on a reimbursable, space available basis. A true testimony of the Center's reputation as a quality training institution is that more agencies are seeking training at both Glynco and our satellite facility at Marana, Arizona. In 1986, two new organizations were granted participating organization status by the Center's Board of Directors -- The Security Police of the National Security Agency and the Office of Inspector General of the Tennessee Valley Authority.

WORKLOAD

In FY 1986, over 16,000 students were trained by the Center. This total includes over 14,000 students who were trained at Glynco in Basic, Advanced, and State and Local Training Programs; over 1,000 students at our Marana, satellite facility; and another 1,000 students through export programs.

During FY 1986, the U.S. Customs Service experienced an increase in the number of students trained because of an organizational change within the Service and the U.S. Border Patrol continued training at higher levels than in the past. I also should note that the Immigration and Naturalization Service and the Internal Revenue Service have told us to expect increases in training for FY 1987 due to the expansion of their enforcement activities.

ORGANIZATION

The Center is approaching the completion of the second year of operation in its present organizational structure. Our 1985 reorganization resulted from an internal review of our operational and administrative functions. As part of our continuing attention to this important area, last December, our managers and supervisors attended the first Center-wide Staff Development Conference to examine

and improve the effectiveness and efficiency of our operations and to explore future directions for the Center. The conference was a success and we have begun implementing many of its substantive recommendations. We will continue this very positive organizational development initiative over the coming months including involvement of the Glynco-based Representatives of our participating organizations.

NEW DORMITORY CONSTRUCTION

In FY 1986, the Center received a $6 million appropriation for a 200-bed dormitory. Design of the new dormitory is in its final stages and invitations to bid will be issued very soon. The anticipated starting date for the construction is July 1987, with an anticipated completion date of December 1988. The addition of this facility will enhance significantly the Center's ability to accommodate the continuing high workload projected for the Center.

WORKLOAD STATISTICS

Mr. Chairman, I direct your attention to the table on Page 5 of my statement reflecting our budget information and workload statistics for FY 1986, along with projections for FY 1987 and FY 1988. I will not review this table in detail, but at the conclusion of my statment, I will be happy to answer any qestions you may have concerning these statistics.

FEDERAL LAW ENFORCEMENT TRAINING CENTER
FUNDING AND WORKLOAD DATA
(Dollars in Thousands)

	1986		1987		1988	
Funding:						
President's Budget	$16,779 [1]		$21,049 [2]		$23,133	
Reimbursable	12,454		10,347		11,531	
TOTAL	$29,233		$31,396		$34,664	
Workload:	Students	Student Weeks	Students	Student Weeks [2]	Students	Student Weeks [3]
Basic	7,293	48,697	11,522	87,662	8,119	58,002
Center Advanced	1,330	2,540	2,939	5,364	2,315	4,345
Agency Advanced	5,557	8,067	6,204	11,318	6,768	12,446
State and Local	2,234	2,545	2,792	3,588	2,792	3,588
TOTAL	16,414	61,849	23,457	107,932	19,994	78,381
Funded Average Resident Student Population (ARSP)	19		620 [4]		862 [4]	
Reimbursable ARSP	1,170		1,456		645	
TOTAL	1,189		2,076		1,507	
Full Time Equivalent Positions	256		261		262	

1/ Congress appropriated $22,779 thousand, which includes $6 million for dormitory construction.

2/ Congress appropriated $29,499 thousand. The Administration has proposed an $8,450 thousand rescission.

3/ The FY 1987 workload is based on agency projections as of July 1986, updated in October 1986 to include Anti-Terrorist training and drug (Operation Alliance) training.

4/ The FY 1988 workload is based on agency projections as of July 1986.

5/ FY 1987 and FY 1988 funded ARSP is based on policy of funding direct training costs only instead of previous policy of funding student travel, food, lodging and direct training costs.

FY 1988 Budget Request

At this time, let me outline the Center's proposed FY 1988 budget. Our appropriation request for FY 1988 is $23,133,000. In addition, we contemplate $11,531,000 in reimbursable income for a total FY 1988 budget of $34,664,000. This budget will allow us to train almost 20,000 students in Basic, Advanced and State and local programs, as shown in the table on Page 5.

Consistent with the policy we implemented in FY 1987, for FY 1988, we are requesting a Congressional appropriation for 100% of only the direct costs of Basic training. Basic training programs are attended by both criminal investigator and uniformed police personnel and are designed to provide entry level knowledge and skills relating to their enforcement duties. The funded direct costs include such items as Instructor salary and benefits, support personnel, utilities, printing, ammunition, and materials and supplies. Pursuant to the Administration's policy, the participating organizations will assume responsibility for the costs for travel, meals and lodging for their Basic students. Further, the agencies will be required to reimburse us for the costs for the various Advanced training programs we conduct at Glynco and Marana.

MINOR CONSTRUCTION AND MAINTENANCE

As you know, Mr. Chairman, the Federal Law Enforcement Training Center is located on 1,500 acres of a former naval air station at Glynco, Georgia. We estimate the replacement value of Glynco to be well in excess of $100 million. Most of the existing Navy facilities were renovated and modified to accommodate various training and support activities. As we move into our twelfth year at Glynco, many of these World War II vintage facilities demand increasing maintenance. Additionally, the dynamic training requirements of Federal law enforcement require that we be able to modify and adapt our physical facilities to respond to our agencies' needs.

In the FY 1988 budget request, the Center is seeking an appropriation of $3 million in no-year funding to insure the continued repair and major maintenance necessary to protect the Government's investment at Glynco and to provide a safe environment for students and staff. The purpose of the no-year aspect of the funding is to allow adequate time for planning and completion of the various projects.

STATE & LOCAL TRAINING

Glynco's National Center for State and Local Training was established by President Reagan in 1982 and provides training for State and local law enforcement agencies in over 20 selected advanced subjects. The National Center has received the broad support of the Federal law enforcement community as well as our State and local colleagues, all of whom provide subject matter experts for program development and instructional services.

Because of the success of the National Center, requests for training often exceed the space available at Glynco. Therefore, some of these programs are being provided on an export basis at sites across the country. The funds included in our budget request will enable us to continue to support program administration, course development, and the valuable work of our State and Local Advisory Committee. Consistent with the shared funding concept that always has been part of our National Center, State and local agencies continue to be responsible for all expenses related to student salaries, travel, food and lodging associated with this training.

MARANA OPERATIONS

In response to a 1984 request from the Department of the Interior's Bureau of Indian Affairs (BIA) that the Center manage the Indian Police Academy, we opened a satellite facility at Marana, Arizona, approximately 25 miles north of Tucson. Because Marana was a contractor operated facility already being utilized for fire suppression training by other Federal agencies, the Center was able to negotiate an expansion of its capability to provide cost-effective training for the BIA.

Since the first 10-week Basic Indian Training Program conducted by the Center at Marana in January 1985, we have used the facility to conduct BIA and other agency Advanced training.

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The Advanced training conducted at Marana is for those students who are posted in the western regions of the United States or it is training that cannot be accommodated at Glynco. During FY 1986, a total of 1,154 students graduated from the Marana facility, including 333 students from the Indian Police Academy's Basic and Advanced programs and 821 students from other Advanced programs.

Marana in no way duplicates the special training features available at Glynco, but it does serve as an adequate satellite facility to support Glynco.

TRAINING PROGRAMS AND INITIATIVES

Allow me to mention some of the programs and initiatives the Center is involved in this fiscal year and will undertake next fiscal year.

PROGRAM VALIDATION

To insure that we continue to provide the highest quality training to our agencies, we are refining our present program evaluation mechanisms. This revised system includes the analysis of questionnaires mailed to recent graduates and their supervisors, which will provide us data to insure that what we teach in our Basic programs is not only consistent with the law enforcement knowledge and skills needed by our graduates, but also that, in the eyes of their supervisors, it is adequately preparing these new officers for the challenges that they confront in the field.

IG BASIC TRAINING PROGRAM

During FY 1986, in conjunction with the President's Council on Integrity and Efficiency, the Center developed a Basic Train-

ing Program to provide customized criminal investigations training for personnel assigned to Inspector General investigative units. This two-week program will be attended by students following graduation from the Center's generic Basic Criminal Investigator Training Program and it will prepare them with basic skills necessary for investigating the complex fraud cases they often encounter. With the development of this program, the Center will meet the important basic training needs of the Inspector General community.

MARINE LAW ENFORCEMENT TRAINING PROGRAM

Following curriculum conference recommendations, the Center is expanding its four-week Marine Law Enforcement Training Program to five weeks to include training in the use of larger vessels and more sophisticated navigational equipment. Development of the new courses has begun, with a target date for implementation in October 1987. This will be an important contribution to the the U.S. Customs Service and other Federal law enforcement agencies in their efforts to interdict illegal drugs being smuggled into the United States by small boats.

PHYSICAL FITNESS COORDINATOR TRAINING PROGRAM

Since physical fitness is a critical concern for the law enforcement profession, the Center designed, developed, and implemented a Physical Fitness Coordinator Training Program. This two-week Advanced program provides assistance to agencies in establishing, coordinating, and monitoring specially tailored law enforcement physical fitness programs within their organizations. After only three offerings, this is proving to be a high demand program.

ANTI-TERRORISM TRAINING INITIATIVE

Recently, at this Committee's direction, the Center developed a plan for increasing Anti-terrorism training for all Federal law enforcement personnel who have a need for it. The Center already had several hours of anti-terrorism training included in its Basic programs, but a review of the increased potential involvement of our participating agencies in terrorist incidents revealed a need to expand that training.

As a result, the Center is concentrating on four training areas: Basic; Anti-Terrorism Management; Terrorist Incident Containment; and Physical Security Management. Course development for the Basic programs and the Anti-Terrorism Management Program have been completed. In addition, in cooperation with the U.S. Customs Service and the Immigration and Naturalization Service, the Center produced a videotape entitled "First Line of Defense." This film, along with a student text, will be used for in-service training by both U.S. Customs Service and the Immigration and Naturalization Service at border ports of entry.

In another aspect of our anti-terrorism training, at the request of the Federal Aviation Administration (FAA), in 1985 the Center developed an Air Marshal Training Program as part of the Administration's response to terrorist skyjacking incidents. Last fiscal year, the Center conducted five Air Marshal classes at Marana. In 1987, we will offer additional training for the Air Marshals.

Additionally, the Center continues to work with the State Department in its Anti-Terrorism Assistance Program designed to improve the capabilities of the civil authorities in friendly foreign countries to better deal with the expansion of international terrorism. This Assistance Program consists of three phases: consultation and visit to key U.S. facilities including Glynco, by senior officials from a participating country;

selection or design of training programs relevant to a particular country's need; and implementation of the selected training.

In FY 1986, the Center was visited by delegations from Pakistan, Persian Gulf States, Netherlands, Portugal, Peru, Malaysia, and Somalia. As part of Phase II of the program, Center staff visited Honduras to meet with officials and offer assistance in further analysing their training needs. We also conducted training programs at Glynco or Marana for Honduras, Turkey, Costa Rica, Greece, Portugal, Brunei, Egypt, the Caribbean and Columbia. In FY 87, we have been or will be asked to assist Barbados, Guatemala, Costa Rica, Senegal and several others.

ADP MODERNIZATION

The Center has continued to progress in its ADP modernization efforts. During the past year, several significant accomplishments in the area of Information Systems have occurred. The most significant has been the development of our Training Management System (TMS). This system involves the computerization of the Center's scheduling, registration, student management, testing, program evaluation, and student records management. This is an activity in which the Center has invested a great deal of time and which will mean a significant improvement in the efficiency of our scheduling and student information management. It also will create a foundation for future Management Information Systems at the Center.

Several new systems also were added during the past year. Our computerized financial management system became operational; and although not totally complete at this time, a new automated Testing System is being developed to improve the efficiency of our student testing and evaluation activities.

In a direct application of ADP technology to the training environment, several year ago, we established the Computer and Economic Crime Division. This newest of our training divisions prepares investigators to use the computer as an investigative tool as well as equipping them with the skills to combat sophisticated white collar and computer crimes. Those programs continue to progress very satisfactorily.

Another aspect of this initiative is the development and use of Computer Based Training (CBT). The Center is currently using computerized laser judgment pistol shooting and interactive videodisc training for cardiopulmonary resuscitation. In addition, we are working on the conversion of the computer orientation course in our Criminal Investigator Training to a CBT Program. The use of Computer Based Training promises to offer a more efficient means to provide individual training for large numbers of students.

In FY 1988, we are requesting $648,000 for our ADP modernization project, distributed among the three categories of Equipment, Systems Analysis and Programming, and Systems Design and Engineering.

CLOSING

Mr. Chairman, in closing, I would like to add that I strongly support the efforts of the Administration and this Committee to control government expenditures. Additionally, I recognize that the success which the Federal Law Enforcement Training Center experiences in providing high quality training at the lowest possible cost has been made possible, in large part, through this Committee's support. We look forward to your continued support and guidance as we meet the challenges that lie ahead.

My colleagues and I are available to answer any questions you may have concerning this appropriation request.

BIOGRAPHY OF JOE MILLER

Mr. RINKEVICH. Thank you, Mr. Chairman. It is a pleasure for me to be here. I would like to introduce the members of my staff. First, on my immediate right is Joe Miller, who, since I last appeared before this committee, has become the Deputy Director of the Federal Law Enforcement Training Center.

Senator DECONCINI. Welcome.

Mr. RINKEVICH. Joe has been our Assistant Director for State and Local Training since December 1983 and became the Deputy Director of the Center late last year. We have a copy of his biography for the record.

[The information follows:]

BIOGRAPHY OF R.J. MILLER

Joe Miller, Deputy Director of the Federal Law Enforcement Training Center [FLETC], entered U.S. Government service as the Assistant Director of FLETC's Office of State and Local Law Enforcement Training. He was responsible for the coordination, development, and administration of approximately 30 specialized training programs, many of which are exported to agencies throughout the country.

The Deputy Director is the second ranking official at the Federal Law Enforcement Training Center. He shares with the Director the responsibility of ensuring that the operation of the Center's 1,500 acre site and multimillion dollar facilities is administered in an effective, efficient, and economical manner. Miller is responsible for coordinating the implementing the day-to-day management of the Center, which includes providing internal direction and management in areas such as personnel, budget, facility development, and operation of training programs. Support in those areas is given Miller by a staff of five assistant directors who report directly to him on the status of the operations. Additional duties include supervising the Center's satellite training operation located in Marana, AZ.

Miller has extensive management experience and involvement with the law enforcement community, which recommend him for his present position. Beginning as a trooper in 1956 and working his way through the ranks, he was appointed superintendent of the Illinois State Police in 1979. He served for 4 years as superintendent of the Illinois State Police, which is a full-service organization comprising criminal investigations and patrol functions. As superintendent, he was responsible for the training, management policies, and daily operations of the law enforcement activities throughout the State. Miller also served as the deputy director of the Illinois Department of Law Enforcement.

Miller is a member of the International Association of Chiefs of Police [IACP] where he serves on the Private Sector Liaison, and the Juvenile Justice Committees.

A native of Olney, IL, Miller is a graduate of Sangamon University where he earned a B.S. in criminal justice in 1980; a masters degree in public administration in 1982; and a masters degree in business administration in 1983.

INTRODUCTION OF ASSOCIATES

Mr. KEATING. If I may say, Mr. Chairman, Mr. Miller was head of the Illinois State Police and has a distinguished career in State and local law enforcement. We are very happy to have him join the Federal family as Deputy Director of the Training Center.

Mr. RINKEVICH. To Joe's right is Bill Kelso, who is the Director of our Office of Administration, and to his right is John Dooher, who is our Assistant Director for our Washington office.

Mr. Chairman, I am going to abbreviate my statement from that which has been submitted to the committee, but there are some portions of it I would like to highlight.

As you know, the Center's mission is to provide basic training and advanced training for the majority of the Federal Government's law enforcement personnel, and to provide training for State and local law enforcement in specialized areas.

Throughout the years, FLETC has become known as a high-quality and efficient training organization with a can-do attitude and state-of-the-art programs and facilities. During my association with the Center, which is now into its fifth year, I have developed a deeper appreciation for the advantages of consolidated training for Federal law enforcement personnel, not the least of which is the enormous cost savings to the Government.

In this regard, using the projected workload for fiscal year 1988, we anticipate that the Government will avoid some $50 million in per diem costs alone when comparing the use of Glynco against other large cities.

PARTICIPATING ORGANIZATIONS

Personnel from 60 participating organizations attend training at the Center on a regular basis. In addition, we receive requests from other Federal agencies, and although we cannot always provide this training on demand, many of these other organizations have taken advantage of the Center's programs on a reimbursable, space-available basis.

We think a true testimony of the Center's reputation as a quality training institution is that more agencies are seeking training at both Glynco and our satellite facility at Marana, AZ.

In 1986, two new organizations were granted participating organization status by the Center's Board of Directors—the sec .ity police of the National Security Agency and the Office of Inspector General of the Tennessee Valley Authority.

WORKLOAD

In fiscal year 1986, over 16,000 students were trained by the Center. This total includes over 14,000 students who were trained at Glynco in basic, advanced, and State and local training programs; over 1,000 students at our Marana satellite facility, and another 1,000 students through export programs.

During 1986, the U.S. Customs Service experienced an increase in the number of students trained because of an organizational change within the service and the U.S. border patrol continued training at higher levels than in the past.

I also should note that the Immigration and Naturalization Service and the Internal Revenue Service have told us to expect increases in training during fiscal year 1987 due to the expansion of their enforcement activities.

WORKLOAD STATISTICS

I direct your attention to the table on page 5 of my statement reflecting our budget information and workload statistics for 1986 along with projections for fiscal years 1987 and 1988.

I will not review this table in detail, but at the conclusion of my statement, I will be happy to answer any questions you may have concerning these statistics.

FISCAL YEAR 1988 BUDGET REQUEST

At this time, I would like to outline the Center's proposed fiscal year 1988 budget. Our appropriation request for fiscal year 1988 is $23,133,000. In addition, we contemplate a figure of $11,531,000 in reimbursable income for a total fiscal year budget for 1988 of $34,664,000. This budget will allow us to train almost 20,000 students in basic, advanced, and State and local programs, as shown in the table on page 5.

Consistent with the policy we implemented in fiscal year 1987, for fiscal year 1988 we are requesting a congressional appropriation for 100 percent of only the direct costs of basic training. Basic training programs are attended by both criminal investigator and uniformed police personnel and are designed to provide entry level knowledge and skills relating to their enforcement duties.

The funded direct costs include such items as instructor salary and benefits, support personnel, utilities, printing, ammunition, and materials and supplies. Pursuant to the administration's policy, the participating organizations will assume responsibility for the costs of travel, meals, and lodging for their basic students. Further, the agencies will be required to reimburse us for the costs of the various advanced training programs we conduct at Glynco and Marana.

MINOR CONSTRUCTION AND MAINTENANCE

As you know, Mr. Chairman, the Federal Law Enforcement Training Center is located on 1,500 acres of a former naval air station at Glynco, GA. We estimate the replacement value of Glynco to be well in excess of $100 million.

Most of the existing Navy facilities were renovated and modified to accommodate various training and support activities, and as we move into our 12th year at Glynco many of these World War II-vintage facilities demand increasing maintenance.

Additionally, the dynamic training requirements of Federal law enforcement require that we be able to modify and adapt our physical facilities to respond to our agencies' needs.

In the fiscal year 1988 budget request, the Center is seeking an appropriation of $3 million in no-year funding to ensure the continued repair and major maintenance necessary to protect the Government's investment at Glynco and to provide a safe environment for students and staff. The purpose of the no-year aspect of the funding is to allow adequate time for planning and completion of the various projects.

STATE AND LOCAL TRAINING

Glynco's National Center for State and Local Training was established by President Reagan in 1982 and provides training for State and local law enforcement agencies in over 20 selected advanced subjects. The National Center has received the broad support of the Federal law enforcement community as well as our State and local colleagues, all of whom provide subject matter experts for program development and instructional services.

Because of the success of the National Center, requests for training often exceed the space available at Glynco. Therefore, some of these programs are being provided on an export basis at sites across the country. The funds included in our budget request will enable us to continue to support program administration, course development, and the valuable work of our State and Local Advisory Committee. Consistent with the shared funding concept that has always been a part of the National Center, State and local agencies continue to be responsible for all expenses related to student salaries, travel, food, and lodging associated with this training.

MARANA OPERATIONS

In response to a 1984 request from the Department of the Interior's Bureau of Indian Affairs that the Center manage the Indian Police Academy, we opened a satellite facility at Marana, AZ, approximately 25 miles north of Tucson. Because Marana was a contractor-operated facility already being utilized for fire suppression training by other Federal agencies, the Center was able to negotiate an expansion of the site's capability to provide cost-effective training for the BIA.

Since the first 10-week basic Indian training program conducted by the Center at Marana in January 1985, we have used the facility to conduct BIA and other agency advanced training. The advanced training conducted at Marana is for those students who are posted in the western regions of the United States or it is training that cannot be otherwise accommodated at Glynco. During fiscal year 1986, a total of 1,154 students graduated from the Marana facility, including 333 students from the Indian Police Academy's basic and advanced programs and 821 students from other agency advanced programs.

As you know, Mr. Chairman, Marana in no way duplicates the special training features available at Glynco, but it does serve as an adequate satellite facility to support Glynco.

ANTITERRORISM TRAINING INITIATIVE

The one substantive issue beyond the budget information that I wanted to mention, Mr. Chairman, is what we are doing in antiterrorism training. Last year, at this committee's direction, the Center developed a plan for increasing antiterrorism training for all Federal law enforcement personnel who have the need for it.

The Center already had several hours of antiterrorism training in-

cluded in its basic programs, but a review of the increased potential involvement of our participating agencies in terrorist incidents revealed the need to expand that training. As a result, the Center is concentrating on four training areas: basic, antiterrorism management, terrorist incident containment, and physical security management. Course development for the basic programs and the Antiterrorism Management Program have been completed.

In addition, in cooperation with the Customs Service and the Immigration Service, the Center produced a videotape entitled "First Line of Defense." This film, along with a student text, will be used for in-service training by both Customs and the Immigration Service at border ports of entry.

In another aspect of our antiterrorism training, at the request of the FAA in 1985, the Center developed an Air Marshal Training Program as part of the administration's response to terrorist skyjacking incidents. Last fiscal year, the Center conducted five air marshal classes at Marana. In 1987, we will offer additional training for the air marshals.

Additionally, the Center continues to work with the State Department in its Antiterrorism Assistance Program designed to improve the capabilities of the civil authorities in friendly foreign governments to better prepare them to deal with the expansion of international terrorism.

CLOSING

In the interest of time, Mr. Chairman, I would like to close by saying that I strongly support the efforts of the administration and this committee to control Government expenditures and I recognize that the success, which the Federal Law Enforcement Training Center experiences in providing high-quality training at the lowest possible cost, has been made possible in large part through this committee's support. We look forward to your continued support and guidance as we meet the challenges that lie ahead.

We now are available to answer any questions you may have.

ANTITERRORISM FUNDING

Senator DECONCINI. Mr. Director, thank you very much. Let me say to you, regarding your efforts in antiterrorism, this Member appreciates very much your moving in that direction based on the langauge we put in the bill and the little bit of money we put in the drug bill. I think you have responded in a very positive way and direction.

I would like you Mr. Director, if you could, to tell us what you think it would take costwise to develop a separate Antiterrorism Training Program. If you do object to that and you do not want it to be separate, what you believe would be the maximum training that you could give to the massive number of people who go through the Glynco operation, what that might cost both on the high side of the maximum, what you could do to beef up what you have now, and where you think the proficiency could be brought up without an enormous amount of increased dollars.

Can you provide that for us?

Mr. RINKEVICH. Yes, sir; I would be pleased to.

Senator DECONCINI. That would be helpful.

[The information follows:]

The Center does not, at this time, envision a separate antiterrorism program, at least not in the sense of separate facilities, staffing, et cetera. During fiscal year 1986, a faculty committee was established to study and develop a plan for the development of additional antiterrorism training at FLETC. As a result of the committee recommendations, the development of additional training for four program areas is underway. Most of this training is dependent on availability of funding.

Basic training.—Eight basic programs averaging 20 hours each in antiterrorism training with pilot programs scheduled during fiscal year 1987.

Antiterrorism management.—A 3-day program designed for supervisors and managers is being developed with a pilot scheduled late in fiscal year 1987.

Terrorist incident containment.—A 2-week program designed for security forces that would be expected to contain an incident until the proper response team arrives. This program is scheduled to be offered in fiscal year 1988.

Physical security managers.—A 3-week program relating to the management of physical security resources and facilities is under development. A pilot offering is scheduled for early fiscal year 1988.

As part of the development process, meetings were held between Center personnel and representatives from the intelligence agencies responsible for the collection and dissemination of information. Program development was coordinated with the responsible agencies. The pilot program for the basic courses are scheduled for the second quarter of fiscal year 1987.

During fiscal year 1987 and fiscal year 1988 startup costs and annual training cost are estimated to be:

Startup costs:	
Facility renovations to meet additional classroom/training area requirements	$500,000
Specialized equipment for antiterrorism and physical security programs	$900,000
Fiscal year 1988 training costs:	
Positions: Seven full-time permanent positions to support increased workload	$200,000
Basic training:	
Students	6,000
Student weeks (S/W)	3,000
Direct training cost	$270,000
Food	$168,000
Lodging and miscellaneous	$273,000
Total	$711,000
Antiterrorism management:	
Students	300
Student weeks (S/W)	240
Direct training cost	$22,000
Food	$13,000
Lodging and miscellaneous	$22,000
Student travel	$90,000
Total	$147,000
Terrorist incident containment:	
Students	75
Student weeks (S/W)	150
Direct training cost	$14,000
Food	$8,000

Fiscal year 1988 training costs—Continued	
Terrorist incident containment—Continued	
Lodging and miscellaneous	$14,000
Student travel	$23,000
Total	$59,000
Physical security managers:	
Students	100
Student weeks (S/W)	300
Direct training cost	$27,000
Food	$17,000
Lodging and miscellaneous	$27,000
Student travel	$30,000
Total	$2,618,000

ANTITERRORISM TRAINING

Mr. RINKEVICH. I should comment that as we developed our antiterrorism training over the course of the last year, we have been very, very careful to focus on the kind of training that we would provide to the needs of the agencies that we train. We have stayed away from the kind of training that would be the responsibility of other agencies to conduct. For example, we do not train the FBI, and so we are not doing any sort of SWAT team or hostage rescue team training as they require for their operations.

Senator DECONCINI. Well, let me ask you this just so we do not put you off on a wild goose chase. Are you doing the maximum training you think you can do in antiterrorism now?

Mr. RINKEVICH. At this point, no, sir, I do not think we are.

Senator DECONCINI. You could do more?

Mr. RINKEVICH. Yes.

Senator DECONCINI. That is what I would like to know. How much more training in the Law Enforcement Training Center could you provide and what resources would be needed.

Mr. KEATING. Senator, this would involve only the Federal family?

Senator DECONCINI. In the Federal family. I get the feeling from talking to Federal law enforcement people that they do not have a lot of training when you talk about terrorism, and no fault of yours; I am not saying that. They do not consider that they are trained for it, at least many of the ones that I talked with. That is different with the FBI and some of the other folks.

FUNDING THE DIRECT COST OF BASIC TRAINING

Your prepared testimony—I think it is page 6—seems to imply that the full, direct cost of basic training is included in your budget for fiscal 1988. Under the definition used by the administration, "direct costs of basic training" mean all costs except the cost of travel, food, and lodging.

It seems to me that the cost of basic training should also include the cost of food and lodging for the participants. Maybe you disagree. What assumptions are being made by the administration with regard to

the elements of basic training being funded in the fiscal year 1988 budget and what would be the additional cost requirements in 1988 if we were to fund all costs with the possible exception of travel?

Mr. RINKEVICH. The assumptions, of course, are as you indicate. The basic training costs that would be funded in fiscal year 1988 for us would be related to those direct costs excluding travel, food, and lodging.

I can provide you at a later time the costs that we would incur for the food, lodging, and transportation.

Senator DECONCINI. Let me ask, is it worth quibbling about?

Mr. RINKEVICH. I think the amount of money is probably $3 or $4 million.

Mr. KELSO. It is about $4.2 million.

Senator DECONCINI. That is a lot of money. OK, thank you, if you would supply that for us.

[The information follows:]

Based upon estimated projections for fiscal year 1988 of 6,330 students and 44,824 student weeks, listed below are the costs for food and lodging. This amount is in addition to the direct costs for training of $4,294,000 requested as part of the Center's budget submission.

Food	$2,425,000
Lodging	1,806,000
Total	4,231,000

WORKLOAD INCREASE

Senator DECONCINI. If you include the Southwest border training requirements imposed on various agencies under the Antidrug Abuse Act of last year, your workload area shows a 43-percent increase in student training weeks between fiscal 1987 and 1988.

In fact, since 1982 the number of basic training students trained has more than tripled, while your average positions have increased by only 21, or approximately 9 percent. Staffing during this period has remained virtually flat.

How do you intend to cope, Mr. Director, with the sharp increase in workload over an increase in the number of permanent positions from 252 to 253 next year? I am particularly concerned about your ability to handle the new training requirements that are driven by the Southwest border initiative Operation Alliance.

Mr. RINKEVICH. We are in the midst of coping with that now, Senator. It is a circumstance that we are dealing with. I think the way in which we have been able to do that and will continue to do that in 1988 is the result of our willingness and the willingness of our staff to take on the additional training that is required. Another very important ingredient is the willingness of our participating organizations to provide additional resources to us on a loan basis to supplement our faculty. That is the way in which we have been able to account for the increased training without the commensurate increase in staff.

FUNDING OF TRAINING

Senator DECONCINI. Well, under the omnibus drug bill last year, there was money put in a number of those agencies, and I know Customs was one and probably some more, for training.

Do you get any transfer, or does that come with the reimbursement of costs, or is that for their own training?

Mr. RINKEVICH. Some of it would come with the reimbursement and we would ask them to make.

Senator DECONCINI. That is the only way you would get it?

Mr. RINKEVICH. Yes, sir; but there was an increase in the Senate's budget over what the President requested last year as part of the drug initiative.

Senator DECONCINI. Yes; none of these agencies want to give you any money for training other than what you bill them for, I am sure.

Mr. RINKEVICH. Well, they anticipate that we will be kept current with what is going on with the increases in their operational organizations to account for the increased training needs at the Center and our ability to be able to accommodate them. We are sort of at the end of the funnel.

When agencies increase their staff, if the Center is not looked after in terms of increased capability, then that funnel becomes constricted.

Mr. KEATING. Mr. Chairman, we would also be very concerned that those funds not be used by other agencies for the purpose of creating their own training centers.

Senator DECONCINI. Yes; exactly.

Mr. KEATING. We think we have created a much higher quality work product and a much finer facility through consolidated training.

Senator DECONCINI. I agree with you.

Do you have any agreements with those agencies to make sure that you are going to get the money from them?

Mr. RINKEVICH. No, sir; we do not.

Senator DECONCINI. As they come to you, then you bill them?

Mr. RINKEVICH. Yes; they come to us and we bill them. If they have the money and we do not, then they will have to pay for the training. Obviously, the better way to do that is for us to have the money so that we can accommodate their needs.

TRAINING FOREIGN LAW ENFORCEMENT OFFICIALS

Senator DECONCINI. I only have one more question, Senator Mikulski, and then I will turn it over to you.

I notice that the President has recommended deleting the bill language that allows the Center to provide training for foreign law enforcement officials on a space-available basis. As you know, the Antidrug Abuse Act of 1986 calls for a major initiative with the Government of the Bahamas to fight drugs in the Caribbean, including funding for the training of Bahamian law enforcement officials in the United States.

It was the hope of the drafters of the bill that the relatively small amount of money—I think it is $1 million—recommended in the bill would help solidify our goodwill with the Bahamians and promote the idea of joint drug enforcement operations with the Bahamas. This will not be possible if we eliminate the foreign training language.

Do you know why the administration has proposed to eliminate this provision, and if you cannot answer it, maybe the Secretary can.

Mr. RINKEVICH. I do not know what the rationale behind this is, Mr. Chairman, but you are correct. I should point out that our foreign training has increased over the course of the last several years; some of it due to the agencies bringing in students from foreign counterpart organizations; some is due to the antiterrorism training that we are doing. We have made it a practice to accommodate those needs on a space-available basis and on a fully reimbursable basis.

Senator DECONCINI. How has that worked?

Mr. RINKEVICH. That has worked fine, and that is the way we handle our State and local training program. When we conduct foreign training or State and local training, we do not in any way denigrate our ability to conduct training for our principal clients, which are the Federal law enforcement organizations.

Senator DECONCINI. Thank you. I will submit the balance of my questions. I know Senator Domenici has one pertinent question you might have heard about. Senator D'Amato and any other subcommittee member who may have questions will also submit them.

MARINE LAW ENFORCEMENT

Senator Mikulski.

Senator MIKULSKI. Thank you, Mr. Chairman.

My questions will focus on marine law enforcement. As someone who represents the great port of Baltimore, of course, I am concerned about seaport security and, of course, when I served on the Merchant Marine Committee, it was the cruise ship situation related to the *Achille Lauro* I was most concerned with.

It seems to me that in this decade alone you have gotten two enormous new challenges, drug interdiction and terrorism, things that were not even in our vocabulary a decade ago.

My question goes to preparing law enforcement officers on the issue of antiterrorism. I know you are working very hard on drug interdiction. One of my concerns is seaport security, which I believe is a vulnerable area in great American port cities, be it New York or Baltimore or wherever. There are so many nooks and crannies in port areas that are just right for saboteurs.

Have you done any special work with the Coast Guard or any of the other Federal agencies in training local agencies in the line of seaport security?

Mr. RINKEVICH. There are two areas that we are working in that impact on that, Senator. The first, and perhaps not as much as the second, is our Marine Law Enforcement Training Program.

We offer a program with the heavy support of the Customs Service. It is now a 3, almost a 4-week program, and it equips the students with the knowledge and skills to enforce the laws that they are responsible for in a marine environment.

We are in the midst of, at the request of the Customs Service and other agencies, expanding this program to 5 weeks in length. This is an advanced training program. It is a relatively expensive program for us to offer and it would be even more so if all of the boats that we used were not seized boats that have been turned over to us. We are talking about the assets that the Customs Service and others have seized from the dopers. We are using them to train future Customs and other officers on how to catch more dopers.

Senator MIKULSKI. We could never afford the kinds of boats they would need.

Mr. RINKEVICH. That is exactly correct. We have a fleet that would be very, very expensive to duplicate and, of course, once we get it, then we must maintain it.

CARGO THEFT INVESTIGATION

The other program that I think is more on target, and I will ask Mr. Miller to comment on it because he is more familiar with it than I, is the Cargo Theft Investigation Training Program, which has been developed in conjunction with several agencies.

This is a program that is very popular with State and local officers, and this program does get to the question of not only seaport, but other transportation mediums and the security necessary to protect cargo from theft.

Joe, would you comment further?

Mr. MILLER. This is a 2-week program where we bring in a good mix of officers, Federal, State, and local, and the program is designed to acquaint them with the various types of transportation systems and the cargo theft that takes place particularly in our port areas.

The second week of the program is a major practical exercise where they actually get to work together in solving a major scenario. The result is that we get a lot of teamwork cooperation, networking among the different agencies as far as intelligence is concerned, and working cooperation in solving the cargo theft problems around the ports.

The program is also important because it allows certain Federal and State and local agencies to recommend private concerns that are working with them in the fight against cargo theft. If a Federal agency is working with a private contractual firm and wanted some of those people to attend the program, they can attend on a space-available and fully reimbursable basis. There would be no money from the Federal side committed to that program; they would have to pay the full amount on it. This program has worked very well in developing a good network of State, local, and private investigators and programs to attack the cargo theft issue.

PARTICIPATION OF THE COAST GUARD

Mr. KEATING. Senator, if I may make an observation, since your question has a Coast Guard component. As you know, the Coast Guard is no longer under the Treasury Department, but because the Coast Guard is becoming a vital player in the drug enforcement picture and because they are now becoming law enforcement officers in every sense of the term, they wish to participate and will participate soon in the actual apprehension of narcotics offenders, perhaps even on land in the course of their air interdiction mission.

I have asked Director Rinkevich to work with the Coast Guard people—they train their own people—to make sure that the quality and the level of training needed by the Coast Guard people in the law enforcement area matches what is available to other law enforcement people.

He will do that, and, hopefully, we will be able to coordinate both training programs.

Senator MIKULSKI. Well, I think that would be excellent. When we think of servicing the ports, it is really Customs and the Coast Guard that essentially are our dockside cops, for want of a better word, each with a different type of mission.

But from what I gather from marine law enforcement, your vessel-boarding training and vessel search is related to drugs. Then at dockside, you have developed a Cargo Theft Program.

Mr. RINKEVICH. Yes, Senator.

ANTITERRORISM ACTIVITIES

Senator MIKULSKI. My concern focuses on some of the terrorist activities where we are talking about blowing up a cargo ship or blowing up a crane used to unload container ships. Essentially, what does terrorism do? It is supposed to destabilize a population, not so much the individual harm.

I wonder if your marine training then extends into some antiterrorist activity for those involved in marine law enforcement.

Mr. RINKEVICH. Our marine training does not, Senator, but one of the four elements of the Antiterrorism Training Program that we have been developing is what we call a Physical Security Training Management Program.

We have not done much developmental work on that, but that program, as we conceive it, would be some 3 or 4 weeks in length. It would be designed to equip law enforcement personnel, who have responsibility to protect and guard physical assets from all intrusions, including terrorist intrusions, and the ways in which that can be done most efficiently consistent with the state of the art of the technology, alarming systems, and intrusion devices.

That is one of the four types of antiterrorism training we have identified, two of which we have already begun to develop. But that also is one of the two programs that we are not able to develop until we have additional resources.

Senator MIKULSKI. Well, I do not want to invent a need that might not exist. However, I would hope as you begin your consultations with the Coast Guard that you work with that you will ascertain whether as part of our marine law enforcement there needs to be an antiterrorist component. I am not a law enforcement officer; I am just somebody who has watched port work. I simply want to make sure you will determine if a need is there.

These are hot spots for potential terrorists and if I am sitting here thinking of those problems, you have got to be sure that the thugs, and so on, around the world are.

Mr. KEATING. We appreciate that, Senator, because as you are saying, we need to anticipate things like this. I would hope Mr. Rinkevich would work with the FBI and ensure that our training program reflects what they may be doing.

Senator MIKULSKI. Maybe it is not a need.

Mr. KEATING. Yes.

Senator MIKULSKI. Maybe it is just something that is my concern but which does not need additional work. I will leave that finding to you, the experts. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you, Senator. We will submit the balance of our questions. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Additional Committee Questions

ORIGINAL REQUEST TO OMB

Question. You are requesting an appropriation of $23,133,000 for fiscal year 1988--a reduction of $6.3 million below the enacted level provided in the Continuing Resolution, 1987. The President has also provided a rescission of $8,450,000, which includes a cut of $8,130,000 for law enforcement training and $320,000 for plant operations. What was your original request to the Office of Management and Budget for the Center; where did they cut you back; and why? Be specific and tell us what you would have done with your original request that you won't be able to do now.

Answer. The Center's original request to OMB was for $25,623,000 and 280 FTE. To this request, OMB added $609,000 for FERS increases and $150,000 for a drug amendment for the State and Local Training Program. Therefore, the revised OMB total is $26,382,000 and 280 FTE. OMB made cuts totaling $3,249,000 and 18 FTE. The reductions were made in the following areas: $625,000 for maintaining current levels, $372,000 for 13 FTE in law enforcement training, $27,000 for 1 FTE in plant operations, $200,000 for the purchase of 1 over-the-road bus for student transportation, and $1,950,000 for facility improvements in minor construction and maintenance. The Center will also have to absorb the $329,000 cost of the pay increase. Also, OMB increased the Center's projected productivity savings by $75,000 and 5 FTE. OMB made the cuts to the Center's budget to reduce Government spending.

The amounts cut by OMB would have been utilized to fully implement the OMB--Treasury funding plan for Basic training and to fund six facility improvement projects. The net result of the cuts means that the Center will have to continue to conduct Basic training utilizing reimbursable FTE and forego the facility improvements. The absorption of MCL's and the pay raise, amounting to $954,000, will result in the Center's reducing funded Basic training by 1,636 students and 12,013 student weeks. This will reduce the funded Basic training in fiscal year 1988 to 76% of the participating agencies projections.

RESCISSION: EFFECT ON 1987 OPERATIONS

Question. As I mentioned, the President has proposed a rescission of $8,450,000 in the Center's enacted budget for fiscal 1987. This rescission, if approved, would cut your enacted level by over 28%. Obviously this level of cutbacks in your enacted level would virtually wipe out the amount Congress added to the President's 1987 budget to put all basic law enforcement training under your umbrella. This would be particularly bad in view of the new training obligations placed on the Center by the Anti-Drug Abuse Act of 1986. What was OMB's rationale for the

proposed rescission and what will be the specific effects on the Center's fiscal 1987 programs for law enforcement training in the current year?

Answer. The Congress added $8.6 million to the President's fiscal 1987 budget request of $20,899,000. The specific rationale for the cut would have to come from OMB, but I believe it was to reduce Government spending. The specific effects on the Center's 1987 programs will be significant. The $8.6 million was going to be spread over three programs, as follows: $1.6 million for Basic training, $1.3 million for anti-terrorism training, and $5,550,000 for drug training. Both the anti-terrorism and drug training included funding for FTE, facility renovations, equipment, and course development in addition to the direct costs of the training. The net result will be that the proposed training in these two critical areas cannot be accomplished if the rescission is approved.

PAY RAISE AND FERS

Question. It is evident that the President has no plans for providing you with any fiscal 1987 supplemental relief for either your pay raise or Federal Employee Retirement System (FERS) obligations. What will the Center have to absorb in fiscal 1987 to cover these costs, and what will be the effect on your programs if you have to "eat" these costs? Be specific.

Answer. The Center has to absorb a pay increase in the amount of $167,000 and the FERS increase amounting to $235,000. This total of $402,000 will have to be absorbed by decreasing the amount of funded Basic training. This will amount to reducing funded Basic training for approximately 670 students and 4,680 student weeks representing an Average Resident Student Population of 90. Because we will absorb these increases, the Center will now be able to fund approximately 3,940 students and 27,560 student weeks representing an Average Resident Student Population of 530, which amounts to 52% of the participating agencies Basic training requests.

BASIC TRAINING COSTS

Question. Your prepared testimony (p. 6) seems to imply that the full direct cost of basic training is included in your budget for fiscal 1988. Under the definition used by the Administration, "direct cost of basic training" means all costs except the cost of travel, food and lodging. It seems to me that the cost of basic training should also include the cost of food and lodging for the participants. Maybe you disagree. What assumptions are being made by the Administration with regard to the elements of basic training being funded in the FY 1988 budget, and what would be the additional cost requirements in FY 1988 if we were to fund all costs with the possible exception of travel?

Answer. The elements included in the OMB--Treasury agreed to definition of direct costs include items such as salaries, benefits and related costs, utilities, printing, services, materials, supplies, and equipment related to the conducting of Basic training. The additional cost requirements in FY 1988 are estimated to be $3,021,000 for travel, $2,425,000 for food and $1,806,000 for lodging for a total increase of $7,252,000.

DORMITORY: STATUS REPORT

Question. In fiscal year 1986, this Committee approved $6 million for construction of a new dormitory at your Glynco, Georgia facility. What is the status of this project and what additional funding, if any, will be needed to complete it?

Answer. We have contracted with an architectural firm to design the dormitory and the final design package is expected by March 20, 1987. The contract for the actual construction will be based on the final design package and action has already been initiated to begin the construction advertising phase. The actual construction is projected to start in July of this year with completion projected for December 1988. At this time we do not anticipate that any additional funding will be required to complete this project.

MAJOR MAINTENANCE AND FACILITY IMPROVEMENTS

Question. The President is requesting $3 million within your budget for major maintenance and facility improvements next year. This is essentially the same amount requested last year by the President. What will this level of funding allow the Center to do in fiscal 1988 and what specific projects will not be accomplished under the funding level proposed by the President?

Answer. The $3 million being requested will be earmarked for major maintenance. The Center has control and responsibility for over 100 buildings on 1,500 acres. The major maintenance projects include items such as replacement of roofs, painting buildings, replacement of tile/carpet, and energy efficiency projects. We have identified facility improvement projects that will have to be delayed. These include: a Confrontation Management Lab, energy conservation renovations to three Center buildings, additional Physical Techniques training areas, portions of a new central energy plant, and a computer training center.

MARANA, ARIZONA FACILITY

Question. The Center's satellite facility at Marana, Arizona, will take on a new and important role this year and next year as we accelerate training for Customs and other agencies that are directly involved in OPERATION ALLIANCE and the implementation of the new Immigration laws. I recently addressed a class of

students at Marana and I am very impressed with the quality of the Marana program. How much will you budget for the Marana facility in fiscal 1988 and how will that compare to fiscal 1987?

Answer. The Marana program started operation in January 1985 and was designed to be a reimbursable operation for the first three years. Most of the operation will remain reimbursable, but we are budgeting a small amount for FY 1988. This will be in the area of direct training costs for the Bureau of Indian Affairs' Basic training and amounts to approximately $110,000.

INCREASES: FY 1986 VS 1988

Question. Your traditional object classification tables show that the Center has experienced a tremendous percentage increase in the cost of supplies and materials since fiscal year 1986 -- from $355,000 in fiscal year 1986 to a request of $2,194,000 next year. This represents a six-fold increase over three fiscal years. Your printing and reproduction costs have also quadrupled over these three years. Can you explain these large percentage increases in supplies, materials, and printing at the Center since fiscal 1986? Afterall, your budget has remained relatively flat since FY 1986.

Answer. The Center's total budget has indeed remained relatively flat for the three years 1986 through 1988. However, the amount that is available for daily operational/training needs has changed over this period of time as disclosed by the following table:

	$000		
	1986	1987	1988
Total Budget	$22,779	$21,049	$23,133
Less:			
Minor Construction & Maintenance	- 2,100	- 3,000	- 3,000
Dormitory Construction	- 6,000	-0-	-0-
Available to Support Operations/Training	$14,679	$18,049	$20,133

The increase in cost of supplies, materials, printing, and reproduction are directly related to the amount of funding we receive to conduct Basic training. In FY 1986, because of the impact of Gramm-Rudman-Hollings together with fiscal constraints in the President's FY 1986 Budget request, the Center was able to fund only two percent of the Basic training workload. Therefore, 98% of the costs for materials, supplies, printing, and reproduction were funded on a reimbursable basis and not reflected in the object classification tables.

For FY 1987, because of the proposed rescission action, only 52% of that Basic training workload can be funded from the Center's budget. For FY 1988, after absorption of the cost of maintaining current levels

($625,000) and the cost of the pay raise ($329,000), the Center will fund 76% of the direct costs of Basic training.

In summary, if the funding of Basic training remained at the same level each year, the object class amounts for supplies, materials and printing would remain relatively stable from year to year unless we experience a significant change in workload during the period.

Questions Submitted by Senator Pete V. Domenici

BIENNIAL BUDGET CYCLE

Question. Calls for budget reform are increasingly heard as budget deadlines are too often missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the two-year budget cycle where budget and appropriations matters would be considered in the first year, and authorizations and oversight would be undertaken in the second year. Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

Answer. The Center would favor a biennial budget process, especially if mechanisms are put in place to allow for supplementals in the second year of the cycle to address issues requiring action and over which the agency has no control. A biennial budget should allow the Center to better plan for the budget and should prove to be a time-saving and productivity improving concept. If this is indeed the case, then we could spend more time on oversight and control of the budget.

Question. Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Answer. Assuming the new policy of funding 100% of the direct costs of Basic training will continue, practically all of the Center's budget would be repetitious. For example, approximately 85% of the FY 1988 requested funded level is for relatively fixed costs not related to normal workload fluctuations. Workload increases and high priority new initiatives mandated by the Administration or Congress would be the major factors causing change.

Question. What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

Answer. I do not foresee any difficulties in sub-

mitting a two-year budget. Our biggest concern would be with the ability of our participating agencies to accurately project their training needs three years in advance. If the biennial budget concept includes a provision for supplementals, when appropriate, then there should not be any major difficulties encountered.

Question. If you oppose the biennial budget concept, please give this subcommittee your reasons why.

Answer. This question does not apply to the Center since we support the biennial budget.

QUESTION SUBMITTED BY SENATOR BARBARA A. MIKULSKI

MARINE LAW ENFORCEMENT

Question. In your discussions with/training of European law enforcement officials, have you discussed maritime/seaport security to avoid Achille Lauro-type situations in the future?

Answer. To date, our training of Europeans has involved trainees only from Greece. The training provided officials from this country involved airport security. To date the Center has not had discussions nor provided training to European officials in the area of maritime security.

Our anti-terrorism program is still in the developmental stage. We will address the issue of maritime/seaport security in our meetings with all groups who share concern about the impact of anti-terrorism in all environments.

SUBCOMMITTEE RECESS

Senator DECONCINI. Do you have any further statements, Mr. Director?

Mr. RINKEVICH. No.

Senator DECONCINI. Mr. Secretary, do you have any further statement?

Mr. KEATING. No, Mr. Chairman; I would like to have my written statement placed in the record.

Senator DECONCINI. Excuse me. We will be sure that it is put in the record in the proper place.

We will hold the record open for 5 days for members' questions or any other supplemental statements that you want to add, and the subcommittee will stand in recess until Monday, March 2, at 9:30 a.m., in this room, when we will receive testimony from seven independent agencies.

Thank you very much, ladies and gentlemen.

[Whereupon, at 3:05 p.m., Thursday, February 26, the subcommittee was recessed, to reconvene at 9:30 a.m., Monday, March 2.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

MONDAY, MARCH 2, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present. Senator DeConcini.

U.S. MERIT SYSTEMS PROTECTION BOARD

STATEMENTS OF:
DANIEL R. LEVINSON, CHAIRMAN
MARY F. WIESEMAN, SPECIAL COUNSEL

ACCOMPANIED BY:
MARIA L. JOHNSON, VICE CHAIRMAN
DENNIS M. DEVANEY, MEMBER
LUCRETIA F. MYERS, MANAGING DIRECTOR
LLEWELLYN M. FISCHER, GENERAL COUNSEL
WILLIAM E. CALDWELL, MANAGING DIRECTOR FOR OPERATIONS, OFFICE OF SPECIAL COUNSEL

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order. This morning the Subcommittee on Treasury, Postal Service, and General Government will receive testimony from seven small but very important agencies regarding their respective budget requests for fiscal year 1988 and any supplemental budget requests.

In order of appearance, we will hear from: the Merit Systems Protection Board; the Office of Special Counsel; the Federal Labor Relations Authority; the U.S. Tax Court; the Administrative Conference of the United States; the Committee for the Purchase from the Blind and Other Severely Handicapped; and the Advisory Committee on Federal Pay.

Obviously, this is a big platter for us this morning so we would ask that each agency witness be brief in their summarization of their opening statements. All full statements will appear in the record.

And finally, I would like to ask each agency to be prepared to provide orally or for the record in more detail, what their original request is for the fiscal year 1988 budget cycle. We also will have questions, I am sure from Senator Domenici—standard questions he will submit to each of you regarding the budget process.

Our first witness will be Mr. Daniel Levinson, Chairman of the Merit Systems Protection Board, and he will be followed by Mary F. Wieseman from the Office of Special Counsel. We are happy to have both of you with us. Even though you represent separate entities, your missions are related, so why do we not hear you both together.

INTRODUCTION OF ASSOCIATES

Mr. LEVINSON. Thank you very much, Mr. Chairman. First I would like to introduce those who are appearing with me this morning.

Senator DECONCINI. Please.

Mr. LEVINSON. To my immediate left is the Vice Chairman of the Board, Maria Johnson. And to her left is Board member Dennis Devaney. On my immediate right is the Board's Managing Director, Lucretia Myers, and to her right is the General Counsel for the Board, Llewellyn Fischer.

I am pleased to appear before you this morning to discuss the Board's appropriation request for fiscal year 1988. To carry out our mandates, the Board is requesting $21,114,000 and 337 FTE work-years.

Those moneys and personnel will be devoted, primarily, to the Board's significant adjudicatory function, and as you know, Mr. Chairman, that takes form in two different ways. One—and this comprises most of our caseload—the Board handles employee appeals from a wide variety of personnel actions. We anticipate that in fiscal year 1988 approximately 8,000 of those appeals will be filed with the Board for processing and decision.

A second important way that the Board fulfills its adjudicatory responsibility is to handle what is called original jurisdiction cases that originate primarily with the Special Counsel's Office, involving prohibited personnel practices, Hatch Act cases, and so forth. In the past year about 52 of those cases were processed by the Board. We expect that in fiscal year 1988 at least that number, if not more, will be processed.

A second important responsibility of the Board, as you know, Mr. Chairman, is to review significant actions of the Office of Personnel Management and to engage in very significant merit systems reviews. That function is expected to result in the issuance of at least 1 dozen reports this year and next. In order to process our caseload and in order to be the significant systemic player that Congress intended us to be in the area of merit systems reviews, we expect that our appropriations request will meet those needs on both scores.

I would appreciate having my formal statement entered into the record and I am prepared to answer any questions you may have, along with my colleagues.

PREPARED STATEMENTS

Senator DECONCINI. Without objection, your statement and that of Ms. Wieseman's will be made a part of the record.

[The statements follow:]

STATEMENT OF DANIEL R. LEVINSON

I am pleased to appear before you this morning to discuss the Merit Systems Protection Board's appropriation request for Fiscal Year 1988. To carry out its statutory mandates, the Board is requesting $21,114,000 and 337 full-time equivalent workyears as its Fiscal Year 1988 appropriation.

The Board is an independent, quasi-judicial agency of the Government. It protects the integrity of the Federal merit systems in two important ways. First and primarily, it adjudicates both individual employee appeals, stemming from a wide variety of personnel actions, and individual charges brought against employees and agencies by the Special Counsel involving prohibited personnel practices. Second, the Board discharges certain systemwide responsibilities: it reviews the significant actions of the Office of Personnel Management (OPM); reviews OPM rules and regulations for consistency with merit principles; and conducts special studies to insure that the civil service is free of prohibited personnel practices. The Board thereby helps establish standards for efficiency and fairness in the Federal workplace, both in developing a sound civil service jurisprudence, and in providing studies upon which policymakers can make systemic improvements.

Given the importance that Congress in the Civil Service Reform Act placed in the Board's adjudicatory role, I am pleased to report that its decisions continue to earn deference before the courts. Over 94 percent of the Board's decisions have withstood the scrutiny of its chief reviewing

court, the United States Court of Appeals for the Federal Circuit, a record of consistency that compares favorably with other administrative tribunals.

Consistent with Congressional intent, the Board also strives to adjudicate in a timely manner. Cases continue to be processed as quickly as agency resources, and the due process protections for the parties, allow. On the average, our administrative judges issue decisions in 80 days. Almost all regional office cases are decided within 120 days. Many of the more complex cases are further appealed to the collegial three-member Board. In Fiscal Year 1986, 80 percent of these cases were decided within 140 days.

The Board anticipates that in Fiscal Year 1988, it will issue approximately 8,000 initial appeals decisions and consider 2,240 petitions for review. Additionally, the Board expects original jurisdiction cases, such as Special Counsel actions, to equal, if not exceed the 52 posted in Fiscal Year 1986. The Board is committed to handling this caseload efficiently, and with due consideration for the important individual, and, in many cases systemic, interests involved in these matters.

Efficiencies in case adjudication are expected to allow for aggressive implementation of the Board's other important function, review and study of OPM actions, and the Government's merit systems generally. We anticipate 12 major special studies to be completed this year. The Fiscal Year 1988 research agenda retains flexibility to react, as necessary, to compensation and staffing issues of major importance.

Our appropriation request for Fiscal Year 1988 is fully explained in the MSPB's budget justification that is before you. As indicated, the request is $1,804,000 more than our Fiscal Year 1987 level, including the pending supplemental request for the January pay increase. Let me underscore that this increase is based solely on uncontrollable increases in fixed costs for personnel compensation, office space, travel, and attorney fee awards. Furthermore, I wish to emphasize that the full-time equivalent workyear request is 27 fewer than the Board requested for Fiscal Year 1987, a reflection of management improvements and increased productivity. The Board's request is based on the assumption that its workload will remain relatively constant. We have not anticipated changes in legislation or the Federal workplace that could cause major changes in the number of cases to be processed.

During Fiscal Year 1988 we will continue to explore methods to achieve greater efficiency. For example, our administrative judges are now being trained in resolving disputes through methods other than formal hearings. We hope that even speedier resolutions can be obtained where formal proceedings are not required.

By the same token, the Board is committed to discharging its primary adjudicatory responsibilities with care and deliberation, consistent with the intent of Congress and in a manner that earns us the confidence of employees and the agencies they serve. Our requested appropriation will allow us to meet these challenges.

Thank you, Mr. Chairman.

STATEMENT OF MARY F. WIESEMAN

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

PLEASE LET ME THANK YOU FOR INVITING ME HERE TODAY TO DISCUSS OUR BUDGET REQUEST FOR FISCAL YEAR 1988.

CONSISTENT WITH THE ADMINISTRATION'S BUDGET, THE REQUESTED BUDGET AUTHORITY FOR FY 1988 IS $4,701,000 WITH 76 FTE POSITIONS. THIS REPRESENTS AN INCREASE OF $284,000 OVER THE FY 1987 ESTIMATED APPROPRIATION OF $4,417,000 AND A DECREASE OF 8 FTE POSITIONS FROM THE CURRENT YEAR FTE LEVEL OF 84.

THE STATUTE REQUIRES OSC TO INVESTIGATE AND, IF WARRANTED, SEEK CORRECTIVE AND/OR DISCIPLINARY ACTION IN CONNECTION WITH ALLEGATIONS OF PROHIBITED PERSONNEL PRACTICES, INCLUDING REPRISAL FOR PROTECTED DISCLOSURES OF INFORMATION; PROHIBITED POLITICAL ACTIVITY; ARBITRARY OR CAPRICIOUS WITHHOLDING OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT; INVOLVEMENT OF ANY EMPLOYEE IN ANY PROHIBITED DISCRIMINATION FOUND BY ANY COURT OR APPROPRIATE ADMINISTRATIVE AUTHORITY; AND ANY OTHER ACTIVITY PROHIBITED BY CIVIL SERVICE LAW, RULE OR REGULATION. OSC ALSO PROVIDES A SAFE CHANNEL FOR DISCLOSURE OF INFORMATION EVIDENCING WASTE, FRAUD AND ABUSE AND REFERRAL OF SUCH INFORMATION TO AGENCIES FOR INVESTIGATION AND APPROPRIATE ACTION.

DURING FISCAL YEAR 1986, 197 FIELD INVESTIGATIONS WERE COMPLETED, THE HIGHEST NUMBER EVER. THERE WERE 31 LITIGATION CASES INITIATED BY OR AGAINST THE OFFICE, WHICH IS A WORKLOAD INCREASE OF 35 PERCENT OVER THE PREVIOUS YEAR. THEREFORE, THE FUNCTIONS OF THE OFFICE REQUIRING THE MOST RESOURCES HAVE EACH INCREASED DURING THE YEAR. IN ADDITION, EXAMINATION AND INVESTIGATIVE ACTION WERE COMPLETED ON 79 PERCENT OF THE TOTAL NUMBER OF MATTERS AND CASES IN PROCESS DURING

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THE YEAR. IN FY 87, ACTION IS EXPECTED TO BE COMPLETED ON ABOUT 80 PERCENT OF THE TOTAL WORKLOAD (1,465 MATTERS OF A TOTAL 1,832 MATTERS, INCLUDING 382 MATTERS CARRIED OVER FROM FY 86).

DURING FY 1986, 52 REFERRALS OF WASTE, FRAUD AND ABUSE WERE MADE TO AGENCY HEADS UNDER THE STATUTE, AND 52 INFORMAL REFERRALS WERE MADE TO AGENCY INSPECTORS GENERAL. BASED ON CURRENT TRENDS, IT IS PROJECTED THAT 55 STATUTORY REFERRALS AND 70 INFORMAL REFERRALS WILL BE MADE DURING FY 1987. THE OFFICE EXPECTS TO MAKE ABOUT 60 STATUTORY REFERRALS AND 75 INFORMAL REFERRALS DURING FY 1988.

CORRECTIVE ACTION WAS REQUESTED IN LETTERS SENT TO AGENCY HEADS ON TWO OCCASIONS IN FY 1986. IN THE FIRST INSTANCE, OSC RECOMMENDED THAT THE AGENCY RESTORE BACK PAY AND LEAVE TO AN EMPLOYEE WHO WAS PLACED ON ENFORCED LEAVE. OSC ACTION WAS BASED ON THE AGENCY'S FAILURE TO PROVIDE THE EMPLOYEE WITH TIMELY NOTICE OF HIS RIGHT TO APPEAL THE ENFORCED LEAVE DECISION TO THE MSPB. THE AGENCY AGREED TO IMPLEMENT CORRECTIVE ACTION IN THE FORM OF BACK PAY AND RESTORED LEAVE.

IN THE SECOND MATTER, THE OSC APPRISED THE AGENCY HEAD OF ITS INVESTIGATION OF A DEPARTMENT'S LONG-STANDING, UNLAWFUL PRACTICE OF DETAILING INTERMITTENT EXCEPTED SERVICE EMPLOYEES TO COMPETITIVE SERVICE POSITIONS. OSC BROUGHT THIS MATTER TO THE AGENCY'S ATTENTION SO THAT APPROPRIATE ACTION COULD BE TAKEN TO ENSURE THAT CIVIL SERVICE LAW WILL BE STRICTLY ENFORCED. THE AGENCY ADVISED OSC THAT CAUTIONARY LETTERS HAD BEEN ISSUED TO THE OFFENDING OFFICIALS AND THAT A MEMORANDUM WAS DISTRIBUTED BY THE HEAD OF THE AGENCY EXPRESSING CONCERN OVER THE IMPROPRIETIES WHICH HAD OCCURRED,

AND AN EXPECTATION THAT FUTURE CIVIL SERVICE VIOLATIONS WOULD BE AVOIDED.

WHILE THE CASES THAT WE LITIGATED BEFORE THE MSPB AND THE COURTS RECEIVE THE MOST ATTENTION, OSC HAS BEEN INCREASINGLY EFFECTIVE IN OBTAINING CORRECTIVE ACTION FOR FEDERAL EMPLOYEES FROM THE AGENCIES WITHOUT RESORT TO FORMAL LITIGATION.

DURING FY 1986, FIVE MATTERS WERE SETTLED BY OSC AND THE AGENCY PRIOR TO THE INITIATION OF FORMAL ACTION:

* DURING AN INVESTIGATION, OSC UNCOVERED EVIDENCE INDICATING THAT CERTAIN OFFICIALS HAD IMPROPERLY IMPLEMENTED SUMMER HIRE PROGRAMS. AS A RESULT OF OSC ACTION, THE AGENCY ISSUED A SUSPENSION, REPRIMAND, WARNING NOTICE AND COUNSELING LETTER TO FOUR INVOLVED EMPLOYEES.

* IN FY 1985, OSC CONDUCTED AN INVESTIGATION WHICH DISCLOSED EVIDENCE INDICATING THAT AN OFFICIAL MAY HAVE ENGAGED IN UNLAWFUL REPRISAL ACTION. BASED ON INFORMATION INDICATING THAT THE TARGET EMPLOYEE, THEN EMPLOYED IN ANOTHER OFFICE, PLANNED TO RETIRE IN JANUARY 1986, OSC DETERMINED NOT TO FILE DISCIPLINARY ACTION. HOWEVER, OSC TRANSMITTED ITS FINDINGS TO THE AGENCY IN OCTOBER 1985. IN JANUARY 1986, OSC WAS INFORMED THAT THE TARGET OFFICIAL RETIRED FROM SERVICE. OSC WAS ALSO ADVISED THAT THE AGENCY AND ONE COMPLAINANT HAD REACHED AN INFORMAL RESOLUTION OF RELATED EEO ACTIONS.

* IN FY 1985, OSC CONDUCTED AN INVESTIGATION OF ALLEGED SEXUAL HARASSMENT BY AN EMPLOYEE. WHILE OSC DECLINED PROSECUTION BECAUSE OF THE AGE AND NATURE OF THE COMPLAINT, IT REFERRED THE MATTER, IN NOVEMBER 1985, TO THE AGENCY FOR APPROPRIATE AGENCY ACTION. IN RESPONSE, THE AGENCY INDICATED

THAT IT WOULD INITIATE INQUIRY. OSC WAS INFORMED THAT THE TARGET EMPLOYEE RESIGNED FROM FEDERAL SERVICE IN JULY 1986.

* IN FY 1986, OSC INVESTIGATED CHARGES OF SEXUAL HARASSMENT BY A SUPERVISOR. THE TARGET EMPLOYEE TOOK A VOLUNTARY DEMOTION TO A NONSUPERVISORY ROLE AT ANOTHER FACILITY, AND WAS FORMALLY COUNSELED REGARDING HIS ACTIONS AND THE AGENCY'S EXPECTATIONS REGARDING HIS CONDUCT.

* OSC SENT THE AGENCY FINDINGS WHICH SUGGESTED THAT AN EMPLOYEE HAD BEEN ISSUED A REPRIMAND IN REPRISAL FOR MAKING DISCLOSURES OF PERCEIVED OFFICE MISMANAGEMENT. IN RESPONSE, THE AGENCY AGREED TO EXPUNGE THE REPRIMAND FROM OFFICIAL DOCUMENTS. THE AGENCY ALSO SUSPENDED TWO OFFICIALS, FOR FIVE AND TEN DAYS, RESPECTIVELY, FOR ENGAGING IN RETALIATION.

SINCE THE BEGINNING OF FY 87, OSC HAS SOUGHT AND OBTAINED THE FOLLOWING FORMAL CORRECTIVE ACTIONS FOR THE BENEFIT OF FEDERAL EMPLOYEES:

* OSC SENT A FORMAL CORRECTIVE ACTION LETTER TO THE AGENCY IN A WHISTLEBLOWER REPRISAL CASE. THE COMPLAINANT HAD DISCLOSED SAFETY PROBLEMS TO AN AGENCY SAFETY COMMITTEE. THE EMPLOYEE WAS FIRED DURING THE PROBATIONARY PERIOD BECAUSE OF THIS ACTIVITY. THE AGENCY AGREED TO CORRECTIVE ACTION INCLUDING BACK PAY AND EXPUNGEMENT OF COMPLAINANT'S RECORDS.

* OSC PETITIONED THE BOARD TO STAY A REMOVAL ACTION. PRELIMINARY INVESTIGATION BY OSC HAD LED TO THE DETERMINATION THAT THE COMPLAINANT'S REMOVAL WAS PROPOSED BECAUSE OF DISCLOSURES OF MISMANAGEMENT WHICH WERE MADE TO THE HEAD OF THE AGENCY. AT OSC'S REQUEST, THE BOARD EXTENDED THE STAY. THE SPECIAL COUNSEL THEN SENT A FORMAL CORRECTIVE ACTION LETTER TO THE AGENCY HEAD RECOMMENDING CANCELLATION OF THE

REMOVAL ACTION. THE SECRETARY AGREED TO THIS RECOMMENDATION AND CANCELLED THE ACTION.

THE FOLLOWING INFORMAL CORRECTIVE ACTIONS HAVE BEEN OBTAINED IN FY 87.

* IN NOVEMBER, OSC CONTACTED THE AGENCY SEEKING INFORMAL CORRECTIVE ACTION, AND A STAY OF THE PROPOSED REMOVAL OF AN EMPLOYEE WHO HAD ALLEGED REPRISAL FOR EXERCISE OF APPEAL RIGHTS AND DISCRIMINATION ON THE BASIS OF NATIONAL ORIGIN AND SEX. THE AGENCY WAS INFORMED THAT PRELIMINARY OSC INVESTIGATION HAD UNCOVERED EVIDENCE OF REPRISAL FOR FILING EEO GRIEVANCES, AND OSC COMPLAINTS, AND ALSO FOUND EVIDENCE OF DISCRIMINATION IN THE FORM OF RACIAL AND SEXUAL EPITHETS. THE AGENCY AGREED TO AN INFORMAL 30-DAY STAY OF THE REMOVAL, AND IN DECEMBER, THE AGENCY ISSUED A DECISION ON THE PROPOSED REMOVAL FAVORABLE TO THE COMPLAINANT. THE DECISION LETTER CANCELLED THE REMOVAL PROPOSAL, AND ALSO CANCELLED A PREVIOUS 7-DAY SUSPENSION AND AWARDED BACK PAY FOR THAT PERIOD.

* THE COMPLAINANT ALLEGED THAT HE WAS REMOVED FROM HIS POSITION BECAUSE HE HAD MADE CONTACTS WITH UNION OFFICIALS AND AN OFFICIAL FROM ANOTHER AGENCY CONCERNING CONDITIONS OF EMPLOYMENT. THE OSC INVESTIGATION REVEALED EVIDENCE THAT THE DECISION TO TERMINATE THE EMPLOYEE, ALLEGEDLY FOR POOR PERFORMANCE, WAS NOT SUPPORTED BY THE FACTS. OSC REPORTED ITS FINDINGS TO THE AGENCY AND THE AGENCY AGREED TO CORRECTIVE ACTION INCLUDING REHIRING AND BACK PAY.

* OSC RECEIVED AN ALLEGATION OF UNLAWFUL PREFERENTIAL HIRING. THE INVESTIGATION FOUND EVIDENCE THAT AGENCY OFFICIALS MANIPULATED THE HIRING PROCESS AND OSC'S FINDINGS WERE FORWARDED TO THE AGENCY. IN JANUARY, THE AGENCY AGREED

TO TAKE CORRECTIVE ACTION TO REGULARIZE THE APPOINTMENT AND TO COUNSEL THE EMPLOYEES INVOLVED.

* SEVERAL COMPLAINANTS ALLEGED SEXUAL HARASSMENT AT THEIR AGENCY. OSC'S INVESTIGATIVE FINDINGS WERE FORWARDED TO THE AGENCY AND IN FEBRUARY THE AGENCY REQUESTED AND WAS GRANTED [UNDER 5 U.S.C. § 1206(F)] APPROVAL TO REMOVE THE SUPERVISOR INVOLVED IN THE SEXUAL HARASSMENT. THE AGENCY ALSO REPORTED THAT IT WAS TAKING DISCIPLINARY ACTION AGAINST A MILITARY MEMBER INVOLVED IN THE CASE.

* AN EMPLOYEE ALLEGED TO OSC THAT A LETTER PROPOSING HIS REMOVAL FROM HIS AGENCY ON GROUNDS OF INADEQUATE PERFORMANCE WAS IN FACT BASED UPON HIS HAVING ASSISTED A CO-WORKER IN FILING AN EEO COMPLAINT. IN JANUARY THE SPECIAL COUNSEL REQUESTED AND RECEIVED FROM THE AGENCY A 60-DAY ADMINISTRATIVE STAY OF THE EMPLOYEE'S REMOVAL. AT AN INFORMAL AGENCY HEARING ATTENDED BY OSC, A THREE-MEMBER PANEL CONCLUDED THAT THE EMPLOYEE'S PERFORMANCE DID NOT WARRANT REMOVAL AND CANCELLED THE REMOVAL ACTION.

* OSC RECEIVED A COMPLAINT THAT SEVERAL FEMALE EMPLOYEES RECEIVED PROMOTIONS AS A REWARD FOR HAVING PROVIDED SEXUAL FAVORS TO THEIR SUPERVISORS. INVESTIGATION REVEALED THAT SEVERAL FEMALE EMPLOYEES HAD ENGAGED IN SEXUAL RELATIONS WITH THEIR SUPERVISORS. IT WAS ALSO ESTABLISHED THAT THE FEMALE EMPLOYEES WHO RECEIVED PROMOTIONS WERE QUALIFIED FOR THEIR JOBS. AGENCY OFFICIALS MET WITH THE SPECIAL COUNSEL AND MEMBERS OF THE INVESTIGATION DIVISION AND AS A RESULT OF THIS MEETING, THE AGENCY INSTITUTED CERTAIN MANAGEMENT CHANGES TO PRECLUDE FURTHER ABUSE OF AUTHORITY BY MANAGERS. THESE CHANGES INCLUDED MORE SUPERVISORY CONTROLS OVER THE EMPLOYEES IMPLICATED IN THE COMPLAINT.

* An employee alleged that his geographic reassignment within the state was in reprisal for his whistleblowing activities. OSC investigation substantially corroborated his allegations and OSC submitted a report to the agency. OSC is awaiting response from the agency.

* OSC investigated an allegation that a management official advocated the appointment of his son in violation of 5 U.S.C. § 2302(b)(7) (nepotism). Investigation by OSC revealed evidence supporting this allegation. The matter was referred to the agency for administrative action; A response is pending.

* An employee alleged that an agency official engaged in various management abuses as well as nepotism. According to the complainant, the official hired his wife for a position under his authority. OSC contacted the agency and learned that the agency had initiated its own investigation. The agency advised OSC that the official had been disciplined (suspension, later reduced to a letter of counseling). Also, the wife was terminated from her position.

* An allegation was received that officials had arbitrarily and capriciously denied an employee's requests for information made pursuant to the Freedom of Information Act. OSC contacted an attorney in the agency's Office of General Counsel to inquire as to the reasons for the denial. Further discussions with this attorney resulted in a decision by the agency to comply with complainant's FOIA request.

OSC has no discretion as to whether it will investigate a matter. Public Law 95-454, 5 U.S.C. 1206(a)(1) requires "the Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the

ALLEGATION TO THE EXTENT NECESSARY TO DETERMINE WHETHER THERE ARE REASONABLE GROUNDS TO BELIEVE THAT A PROHIBITED PERSONNEL PRACTICE HAS OCCURRED, EXISTS, OR IS TO BE TAKEN."

THE OBJECTIVE OF THE OFFICE IS TO DEAL PROPERLY AND PROMPTLY WITH EACH ALLEGATION OR COMPLAINT RECEIVED. TO THIS END, EACH COMPLAINANT IS CONTACTED PERSONALLY TO ASSURE THAT THE NATURE OF THE ALLEGATION OR COMPLAINT IS CORRECTLY AND COMPLETELY UNDERSTOOD. EMPHASIS IS GIVEN TO RESOLUTION OF ALL MATTERS THROUGH APPROPRIATE INVESTIGATION, AND INITIATION OF CORRECTIVE ACTION AND/OR DISCIPLINARY ACTION (WHEN FOUND WARRANTED) OR DECLINATION OF ACTION IN A TIMELY MANNER, AND APPROPRIATE DISPOSITION OF CLEARLY NON-MERITORIOUS MATTERS AND MATTERS NOT WITHIN THE OFFICE'S JURISDICTION AT THE EARLIEST POSSIBLE LEVEL OF REVIEW.

THE CENTRALIZED FRONT-END REVIEW AND SCREENING OF ALL NEW COMPLAINTS AND ALLEGATIONS HAS BEEN PROVED AN EFFECTIVE METHOD OF RESOLVING COMPLAINTS EFFICIENTLY, PROPERLY AND TIMELY.

THE OFFICE OF THE SPECIAL COUNSEL HAS NO OPPORTUNITY FOR EARMARKING ANY OF ITS BUDGET ITEMS FOR DISCRETIONARY ACTIVITIES. PERSONNEL, BENEFITS, RENT, COMMUNICATIONS, SUPPLIES, ETC., COMPRISE WELL OVER NINETY PERCENT OF OUR BUDGET AND ANY CUTS OF LINE ITEMS WOULD BE REFLECTED IN IMPAIRED RESPONSE CAPABILITY TO EMPLOYEE COMPLAINTS.

THE AMOUNT REQUESTED FOR TRAVEL IS NECESSARY TO CONDUCT INVESTIGATIONS OF PROHIBITED ACTIVITY ALLEGATIONS SUFFICIENT TO SATISFY THE STATUTE. BECAUSE PAST ANALYSES SHOWED THAT MAINTAINING A NETWORK OF REGIONAL OFFICES WAS NOT COST

EFFECTIVE (AND THE EXISTING FIELD OFFICES WERE REDUCED TO TWO) IT IS NECESSARY TO MAINTAIN A HIGH LEVEL OF TRAVEL TO SUSTAIN AN ADEQUATE RESPONSE TO COMPLAINTS.

IT IS ALSO NECESSARY TO EMPLOY THE SERVICES OF COURT REPORTERS FROM TIME-TO-TIME TO RECORD PROPERLY THE RESULTS OF INVESTIGATIVE INTERROGATIONS, PARTICULARLY WHEN AN ALLEGATION UNDER INVESTIGATION APPEARS MERITORIOUS ON ITS FACE. ANY REDUCTION IN THE REQUESTS FOR TRAVEL AND OTHER EXPENSES WOULD SERIOUSLY REDUCE THE EFFECTIVENESS OF THE OSC INVESTIGATIVE ACTIVITIES.

AT THE BEGINNING OF FY 1986, A TOTAL OF 316 INVESTIGATIVE MATTERS, DISCLOSURE CASES AND LITIGATION CASES WERE PENDING IN THE OFFICE. OF THESE, THERE WERE 21 LITIGATION CASES, 39 DISCLOSURE CASES AND 256 PROHIBITED ACTIVITY MATTERS PENDING EITHER PRELIMINARY INQUIRY, OR ACTIVE INVESTIGATION OR FINAL LEGAL REVIEW. BY THE END OF THE FISCAL YEAR, FINAL DECISIONS HAD BEEN ISSUED ON 23 LITIGATION CASES, 197 FIELD INVESTIGATIONS HAD BEEN COMPLETED AND A TOTAL OF 1,300 MATTERS HAD BEEN RESOLVED AFTER PRELIMINARY INQUIRY OR INVESTIGATION.

RECEIPTS DURING FISCAL YEAR 1986 WERE UP SLIGHTLY FROM THE PREVIOUS YEAR, 1,526 COMPARED TO 1,512 THE PRIOR YEAR. THE OFFICE EXPECTS TO RECEIVE ABOUT 1,500 MATTERS IN FY 1987. HOWEVER, THE NUMBER OF COMPLAINTS MAY INCREASE BECAUSE OF ADVERSE PERSONNEL ACTIONS RESULTING FROM DRUG TESTING AND FURTHER REDUCTIONS IN THE WORK FORCE DUE TO BUDGET CUTBACKS.

DURING FISCAL YEAR 1986, 295 PROHIBITED ACTIVITY AND DISCLOSURE MATTERS WERE ON HAND AT THE BEGINNING OF THE YEAR AND 1,526 MATTERS WERE RECEIVED, FOR A TOTAL WORKLOAD OF 1,821 MATTERS. A TOTAL OF 1,439 MATTERS (79.0%) WERE RESOLVED AFTER INITIAL INQUIRY, FIELD INVESTIGATION, OR THE DISCLOSURE OF MATTERS REFERRED TO A FEDERAL AGENCY, LEAVING 382 ON HAND AT THE END OF THE PERIOD. DURING FISCAL YEAR 1987, AS OF JANUARY 30, 1987, AN ADDITIONAL 398 COMPLAINTS HAD BEEN RECEIVED, AND 437 MATTERS RESOLVED. FIELD INVESTIGATIONS HAVE BEEN COMPLETED IN 59 MATTERS AND SEVEN LITIGATION CASES HAVE BEEN INITIATED.

WHISTLEBLOWING DISCLOSURES REFERRED TO FEDERAL AGENCIES FOR REPORTS REMAINED ABOUT THE SAME DURING FISCAL YEAR 1986, AS DID HATCH ACT MATTERS. THERE WERE 104 DISCLOSURES REFERRED TO AGENCIES BOTH UNDER THE STATUTE AND INFORMALLY DURING THE YEAR. THE OFFICE RECEIVED 83 ALLEGATIONS OF HATCH ACT VIOLATIONS DURING FISCAL YEAR 1986.

THE SPECIAL COUNSEL CONTINUES TO EMPHASIZE OUTREACH TO INCREASE THE AWARENESS AMONG FEDERAL EMPLOYEES OF THE PROVISIONS OF THE CIVIL SERVICE REFORM ACT, THE HATCH ACT AND THE ROLE AND RESPONSIBILITY OF THE OSC. TWENTY-FIVE SPEECHES WERE GIVEN AROUND THE COUNTRY BY MEMBERS OF THE OSC SENIOR STAFF DURING FY 1986. IN ADDITION, THE OFFICE DISTRIBUTED OVER 36,000 COPIES OF OSC INFORMATIONAL MATERIALS TO THE PUBLIC AND CONGRESS.

DURING FISCAL YEAR 1988, THE OFFICE PLANS TO SPEND $209,000 TO UPDATE EXISTING COMPUTER EQUIPMENT AND WORKSTATIONS WHICH ARE NEAR OBSOLESCENCE. WHILE THIS WILL NOT

PROVIDE ADDITIONAL AUTOMATION WHERE THERE CURRENTLY IS NONE. THE EFFECT OF THE UPGRADE IS EXPECTED TO IMPROVE THE EFFICIENCY OF OFFICE OPERATIONS.

DURING FY 1986 THE OFFICE OF THE SPECIAL COUNSEL REFINED AND IMPROVED THE HANDLING OF ITS ADMINISTRATIVE MANAGEMENT ACTIVITIES. ESPECIALLY IMPROVED WERE THE PERFORMANCE AND RELATIONS WITH ITS CROSS-SERVICING AGREEMENT WITH THE NATIONAL FINANCE CENTER OF THE DEPARTMENT OF AGRICULTURE IN NEW ORLEANS. IN ADDITION TO TIMELY RECONCILIATIONS OF GENERAL LEDGER AND PAYROLL ACTIVITIES, THE OSC DEVELOPED A METHOD FOR THE ELECTRONIC TRANSMISSION OF TIME AND ATTENDANCE DATA TO THE NFC TO FACILITATE THE PROCESSING OF THE PAYROLL.

THIS CONCLUDES MY FORMAL STATEMENT WHICH ALONG WITH THE BUDGET JUSTIFICATION, SUMMARIZES THE NEED FOR THE BUDGET REQUEST OF FY 1988 OF $4,701,000, AS SUBMITTED BY THE PRESIDENT.

I WOULD BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU OR OTHER MEMBERS OF THE SUBCOMMITTEE MAY HAVE AT THIS TIME.

Senator DECONCINI. Ms. Wieseman, would you like to go ahead and do yours and then we will join together in the questions.

Ms. WIESEMAN. Thank you, Mr. Chairman. With me is William Caldwell, who is the head of the management operations at the Office of Special Counsel.

Senator DECONCINI. Welcome, Mr. Caldwell.

Mr. CALDWELL. Thank you.

Ms. WIESEMAN. Let me thank you for inviting me here today to discuss our fiscal year 1988 budget. Consistent with the administration's budget, we have requested a budget authority for fiscal year 1988 of $4,701,000 with 76 FTE positions. This represents an increase of $284,000 over the fiscal year 1987 estimated appropriation of $4,417,000, and a decrease of 8 FTE positions from the current year FTE level of 84.

The statute requires OSC to investigate and, if warranted, seek corrective and/or disciplinary action in connection with allegations of prohibited personnel practices, including reprisal for protected disclosures of information; prohibited political activity; arbitrary or capricious withholding of information under the Freedom of Information Act; involvement of any employee in any prohibited discrimination found by any court or appropriate administrative authority; and any other activity prohibited by civil service law, rule, or regulation.

We also provide a safe channel for persons to make disclosures with respect to fraud, waste, and abuse in the Federal Government. We handle, and expect to handle in 1988, approximately 1,500 allegations which we will process in our office and seek appropriate corrective and/or disciplinary action with respect to those allegations.

Within the budget request is an increase of $209,000 for computer equipment which will replace obsolete computer equipment, and that is the primary focus of the increase in the appropriation request.

I will be happy to answer any of your questions.

Senator DECONCINI. Thank you very much. Let me ask you a question first. I am concerned about the rising discussions and problems, particularly coming from the House side, regarding whistle blowers. You have been criticized rather severely by some over there, particularly Congresswoman Pat Schroeder of Colorado, for not being tough enough on those who have blown the whistle and the results of what have come about that.

I understand she has even introduced legislation. I have not read it yet, but I accept what was in the paper. And I have read a little bit of your defenses and I would like to have you have an opportunity here, because of your staunch defense of your record.

To what do you attribute the continued criticism of Congress? Is it political? That is one of the land mines that we all skirt around here all the time, but maybe you can give us some reason why you think it is on the rise. I have only been here 10 short years, but I have not seen it as severe as it has been in the last couple of years.

Ms. WIESEMAN. Well, Mr. Chairman, I believe that I would not characterize the attacks as purely political at all. I think everyone—the President and all in Government—are interested and wish to encourage whistle blowers. They want to see that fraud, waste, and abuse in Government is contained and stamped out.

That is one of the primary functions of our office and we have the responsibility, when we receive an allegation or obtain evidence, that a personnel action has been taken against the person in reprisal for whistle blowing, to use all of the powers of the office to assure that that does not occur, that corrective action occurs, and disciplinary action in appropriate cases.

I think that what had occurred, perhaps—and I might add at this point, Mr. Chairman that there was a thorough General Accounting Office review of the Office of Special Counsel which was released at the beginning of 1986, which was an 18-month study of the Office of Special Counsel, particularly with regard to the processing of whistle blower reprisal cases.

The GAO, I think significantly, found that they did not disagree with any of the decisions that the Office had made with respect to bringing actions in connection with the cases that they did review. They did a random sample as well as a sample that was directed to specific cases that were brought to their attention by the House, Chairman Schroeder's committee.

So that there is, I think, independent review of what the office has been doing. I think perhaps what has happened in the last year is that maybe the rhetoric, in terms of what the office does and does not do, does not reflect actually what has occurred, and certainly what is occurring.

I have been Special Counsel since September. I do feel that it is my responsibility as Special Counsel—the Office of Special Counsel's responsibility—to use all of the authorities of the office to assure that whistle blowers are not reprised against.

We do that in a consistent manner. We have systems set up—review procedures—to review decisions very systematically, so that we do not miss a case, do not miss a matter that should be appropriately brought for corrective action and/or disciplinary action.

I have a very professional staff. I believe that we are reviewing all of the cases as closely as possible to assure that we are bringing the corrective action and disciplinary actions where appropriate. The issue, of course, is that once we decide to bring a case the ultimate result will have to be—if an agency does not agree to a corrective action—it will have to be adjudicated. And with an adjudication we have to present the evidence necessary to be able to show that a prohibitive personnel practice has occurred.

The law has been fairly clearly set out as to what elements we need to prove. We need the evidence in any given case—and each case has to be looked at on its own merits—to make those determinations, can we prove that reprisal for whistle blowing has occurred in a particular case.

Senator DECONCINI. What if an unsatisfied whistle blower wants to come see you? Will you see him? After the case?

Ms. WIESEMAN. In fact, Mr. Chairman, we do have a review system set up to do an appellate review of a closure. The complaints examining unit is the original place where an allegation would come. It is reviewed there. An initial investigation is made to determine whether a further investigation, a full field investigation, is warranted.

If a person is dissatisfied with that decision at the CEU level, there is an appeal process set up within the office for another review. And, in fact, since I have been there I have reviewed two matters and reopened them at the request of the complainant.

Senator DECONCINI. And when you say you have reviewed, do you talk to the complainant then?

Ms. WIESEMAN. I did not talk to the complainant in those cases. I reviewed their materials. In the two cases I reviewed the materials and determined that an investigation was warranted, not to say that we will be able to obtain the evidence, but that an investigation was warranted.

Senator DECONCINI. Is there still a whistle blower's hotline?

Ms. WIESEMAN. Yes; there is.

Senator DECONCINI. What kind of use does that get?

Ms. WIESEMAN. That gets a fair amount of use.

Senator DECONCINI. How many calls a week or a month? Maybe you could give that to us.

Ms. WIESEMAN. I could. I could give you the numbers in writing.

[The information follows:]

The OSC whistle blower hotline number receives about 20 calls per month (5 per week).

WHISTLE BLOWER PHONE CALLS

Ms. WIESEMAN. But it is used every day. Every day we get calls, but we do request that the persons who are making allegations put them in writing.

Senator DECONCINI. Assuming a whistle blower who is not obnoxious does not get the results that he or she thinks is necessary and they want to see you, would you see them?

Ms. WIESEMAN. Yes; I do not see——

Senator DECONCINI. You do not have any problem visiting with them, seeing them one to one?

Ms. WIESEMAN. No; I think what we need to do—as I said, I think the rhetoric has been a problem—is to assure that the Government employees and the persons who come within our jurisdiction have confidence in us. We have to be an office that is open to the Federal employee and is open to discussing what we do and why we do it, and that would be part of that.

Senator DECONCINI. How much is it human nature when you try to send somebody back that is blowing the whistle? You really cannot legislate or order someone to treat him nicely after they have blown the whistle on him, can you?

Ms. WIESEMAN. No; you cannot. That is a fact of life anywhere. I think a whistle blower has to know that the law can only go so far in terms of human nature and human activities. However, the MSPB will review whether agencies have, in fact, complied with the orders of the Board.

Senator DECONCINI. Mr. Levinson, your original budget request to OMB back in September 1986 was $22 million plus for 364 full-time equivalent positions. Your 1988 budget request before the committee is $21,114,000 with 337 FTE's. What was OMB's rationale for cutting back your funding request?

Mr. LEVINSON. My understanding, Mr. Chairman, was that OMB was of the view, that given the way Board operations had proceeded during the previous year and looking at what we had planned for the coming year, that it would be possible to work within lower numbers. And we went back to the drawing board and looked very carefully.

Senator DECONCINI. You can operate with this lower number?

Mr. LEVINSON. Yes; I am convinced that as of now, looking at what we expect in terms of our caseload, in terms of our agenda for merit systems review, that we should be able to work within these numbers. If, however, something dramatic were to occur with respect to either reductions in force or major activity that could trigger significant increases in appeals, these numbers, I think, would need to be revisited.

Senator DECONCINI. On February 5 you announced that the Board had found that the national presidents of three postal and Federal employee unions violated the Hatch Act by their publication of partisan political statements during the 1984 Presidential campaign.

Can you tell us what the status is of these important cases and give us some historical background on prior cases before the Board of this magnitude?

Mr. LEVINSON. The current status of the cases, Mr. Chairman, is that they have been issued by the Board. They are final decisions of the Board, and I have heard informally that there will be appeals to the courts by these Board respondents.

Senator DECONCINI. So you are through with them.

Mr. LEVINSON. That is correct.

Senator DECONCINI. Do you get involved when they appeal? Do you have to represent yourself in the appeal? How does the appeal process work? It goes to the district court?

Mr. LEVINSON. I believe that is correct, but let me ask the General Counsel to reply.

Mr. FISCHER. The cases would go to the courts of appeals and we would defend our position.

Senator DECONCINI. You will defend your position? You will do that?

Mr. FISCHER. Yes.

Senator DECONCINI. And when will that happen? Do you know?

Mr. FISCHER. Well, we are not sure. The timing depends on the union officials themselves and when they take the appeal.

Senator DECONCINI. Have you had complaints about these particular people before? I wonder why these cases came up. They have been around a long time and they should know the law. I wonder if you have any history on these particular individuals of any other complaints.

Mr. LEVINSON. I am not aware of any previous cases involving these respondents.

Senator DECONCINI. This was a first impression case, then, as to these people?

Mr. LEVINSON. Yes; it is an unusual collection of cases because it involves individuals who enjoyed the status of Federal employees and yet have not been involved in productive service to the Federal Government for some years, and in one case, since 1959.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you. I have no further questions. I will have some for the record and Senator Domenici will have some.

Thank you very much.

Mr. LEVINSON. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

INCREASES GRANTED OVER INITIAL REQUEST

Question. It appears that OMB actually gave you some increases over your initial request to them. For example, you received $36,000 more for travel than you originally asked for; $32,000 more for supplies and materials; and $21,000 more for rental payment to others.

Can you explain this somewhat unique phenomena to the subcommittee? What is your secret?

Answer. For two items, the January 1987 pay raise and the new Federal Employees' Retirement System, OMB requested the Board's estimates subsequent to the submission of the initial request in September. These estimates as adjusted by OMB were added to the fiscal year 1988 request forwarded to the Congress.

For no other item did the OMB allowance exceed the Board's September justification. After the justification was sent to OMB, several minor updates were made to individual 1987 cost estimates as more information became available. The factors which caused the updates to the 1987 cost estimates also caused corresponding updates in 1988 cost estimates. The difference in the estimates between the OMB and congressional justification for some expenses for fiscal 1988, therefore, reflects updated estimates rather than increases in the OMB allowance above what was requested.

These increases were offset by corresponding decreases in other areas.

TRAVEL

Question. Your travel request calls for $620,000—an increase of $90,000 or 17 percent over current levels.

Why is your travel budget increasing by nearly six times the inflation rate when your staffing remains the same at 337 FTE?

Answer. The travel request reflects the impact of two uncontrollable increases in the Board's travel expenses. The first is the Governmentwide increase in the per diem rates. Based on GSA estimates of a 14-percent increase in costs, we anticipate that the new rates will increase our travel expenses by about $69,000 per year. The second is the increase in overall cost of general goods and services purchased by the Government

estimated by OMB to be 3.7 percent in fiscal 1988. This fact would increase the Board's travel costs by approximately $21,000 per year.

Pay Raise Absorption Effect

Question. Your 1988 request only provides you with one-half of your annualized costs of the January 1987 pay raise.

What effect will this absorption have on your programs?

Answer. The Board is committed to supporting the President's effort to reduce the Federal deficit and is working to improve the efficiency of its operations. While the Board's absorption of one-half of the $486,000 pay raise costs will reduce its flexibility in responding to unanticipated problems, our 1988 appropriation request provides sufficient funds to handle the projected workload in a fair and timely manner.

Fiscal Year 1986 versus 1987/88 Positions

Question. In a footnote on page four of your budget book, you say that the installation of new word processors in fiscal year 1986 allowed the Board to leave several vacancies unfilled and to abolish 24 permanent positions in fiscal year 1987. That dropped you from 354 positions to 294 by the end of 1986. Now your budget is back up to 330 permanent positions in 1987 and 1988.

What happended between the productive year in fiscal year 1986 when you were able to cut staffing sharply, and the current budget years where staffing has gone back up by over 10 percent?

Answer. To carry out its mission in fiscal year 1986, the Board used 325 FTE's, approximately 3½ percent less than the 337 FTE's we plan to use in fiscal year 1987. While there were 294 full-time permanent positions filled at the end of fiscal year 1986, this number does not include part-time or temporary employees. The end-of-year on-board strength was lower than it would normally be because there was a 5½-month period between the departure of the outgoing Chairman and the arrival of the new Chairman. During this period, the Acting Chariman left a number of positions vacant to permit the new Chairman to fill them. These positions are now being filled to ensure that the Board carries out its responsibilities as mandated by the Civil Service Reform Act.

Finally, as pointed out in the Board's budget book, a savings of 24 permanent full-time positions was achieved through installation of new word processors throughout the Board. These plus three additional part-time and temporary positions were permanently abolished so that our fiscal year 1987 funds and FTE would be in balance.

Questions Submitted by Senator Pete V. Domenici

Biennial Budget Cycle

Question. Calls for budget reform are increasingly heard as budget deadlines are too often missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the 2-year budget cycle where budget and appropriations matters would be considered in the first year, and authorizations and oversight would be undertaken in the second year.

Would your department/agency favor a biennial budget process: What benefits would your agency achieve in a 2-year appropriation cycle?

Answer. The MSPB favors studying the possible establishment of a Federal biennial budget process. This approach has worked very well for a number of States and has the potential to save both the Congress and the executive branch significant time and resources. As a result efforts could be directed toward the resolution of other problems and concerns.

Question. Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Answer. The Board's entire budget pays for salaries and related operating expenses such as travel and office supplies which would not normally be significantly different from one year to the next. Changes in either FTE or dollar level from year to year generally reflect changes in either projected workload or inflationary increases. The changes normally could be described as minor adjustments to the previous year.

Question. What difficulties can you foresee in preparing and submitting a 2-year budget to the Congress?

Answer. The principal difficulty is the uncertainty in forecasting resource needs for an additional year.

There would need to be a systematic method of making necessary adjustments in the second year. For example, the exact amount of the general increase in Federal salaries is not known until shortly before it becomes effective. In the case of the Board, its overall workload level is determined by external events, such as an air traffic controllers' strike or new legislation, which are difficult to predict.

Question. If you oppose the biennial budget concept, please give this subcommittee your reasons why?

Answer. The Board does not oppose the biennial budget concept.

FEDERAL LABOR RELATIONS AUTHORITY

STATEMENT OF JERRY L. CALHOUN, CHAIRMAN

ACCOMPANIED BY:

JOHN C. MILLER, GENERAL COUNSEL
JACQUELINE R. BRADLEY, EXECUTIVE DIRECTOR
GEORGE B. BAILY, JR., DIRECTOR OF FINANCIAL AND PROGRAM ANALYSIS
HOWARD SOLOMON

PREPARED STATEMENTS

Senator DECONCINI. Our next witness will be Mr. Jerry Calhoun, Chairman of the Federal Labor Relations Authority.

Mr. Calhoun, Mr. Miller, Mr. Baily, Ms. Bradley, and Mr. Solomon, how do you do. We are glad to have you here. Please go ahead, Mr. Calhoun. Your full statements will be in the record and you can summarize it for us.

[The statements follow:]

STATEMENT OF JERRY L. CALHOUN

Mr. Chairman and Members of the Committee, I appreciate this opportunity to appear before you to discuss the FY 1988 appropriation request for the Federal Labor Relations Authority (FLRA).

The request before you is for $17,951,000 and 273 full-time permanent positions. This represents an increase of $1,485,000 over the FY 1987 level combined with the pending supplemental request to cover January 1987 pay raise costs. The 273 full-time permanent positions is a 4 position reduction from our current authorized level.

The FLRA budget request consists almost entirely of mandatory items of expenditure. As the table below indicates, salaries/benefits, space rental, and communications and utility charges constitute 89 percent of the FLRA appropriation request leaving little money for what is often referred to as discretionary items of expenditure.

ITEM	PERCENT OF TOTAL BUDGET REQUEST
Personnel Compensation and Benefits	75.0%
Rent Payments to GSA	11.0%
Communications, Utilities, and other Rents	3.0%
All Other Categories	11.0%
TOTAL BUDGET REQUEST	100.0%

This budget request has been carefully analyzed to ensure that it represents only those expenditure levels necessary to accomplish our FY 1988 program goals, ADP and space configuration needs.

To meet our increased ADP requirements, we are making a one time request for $575,000 to upgrade the ADP system within the Authority. Currently, the Authority's ADP needs are being met by two Wang office systems supporting a total of thirty-nine terminals and thirteen printers. Nearly eighty users access these systems on a regular basis. An information systems study performed by an outside consultant during July/August 1986 concluded that: "(1) the current system is approaching saturation, (2) word processing support is adequate, but lacks highly desirable features, such as floating footnotes, (3) publication support is absent, (4) office automation capabilities are limited, and (5) there is no data base management capability." To achieve further productivity improvements it is necessary to reduce the number of users for each terminal, enhance and improve data processing applications such as case tracking, analysis, research, and to upgrade word processing and office automation capabilities expeditiously. The benefits we expect to receive from a new system are: (1) improved decision support through a combination of a database management system, non-procedural query language, and report and applications generators; (2) improved case tracking, case analysis, and reporting capabilities; (3) the addition of automatic floating footnotes and an enhanced "cut and paste" capability, along with line drawing, line numbering, integrated text and graphics, multi-column text editing, split screen display, and enhanced formatting; and, (4) reduced personnel costs in future years.

The remaining FY 1988 increases are for the following items: (1) a headquarters renovation effort which will

result in a 17% reduction in currently leased space; (2) the FY 1987 January pay raise and periodic merit/within grade pay increases; (3) inflation; and (4) the implementation of the new Federal Employees Retirement System.

The FLRA was established to administer title VII of the Civil Service Reform Act of 1978 and to serve as an adjudicatory agency in the resolution of labor-management disputes arising among unions, employees and Executive Department agencies (as well as some Legislative Branch agencies). The FLRA is also charged with resolution of labor-management disputes which may involve foreign national employees of the U.S. Government in the area of the Panama Canal, and our staff resources support the activities of the Foreign Service Labor Relations Board under Chapter 10 of the Foreign Service Act of 1980. There is potential for labor-management disputes to arise in all these areas and the resolution of them by the FLRA contributes to the effective and efficient operations of the Government.

In FY 1986 the Authority set two primary objectives. The first was to reduce the case inventory and get our agency in a position to decide cases in a much more timely manner -- the vast majority within a 180-day time frame. The second was to actively look for ways that we could better discharge the leadership role Congress envisioned when the program was established.

We knew that only when we had accomplished the first goal would we be in a position to attack the second goal. I am pleased to report that in FY 1986 the FLRA closed 614

cases and in the process reduced our inventory from 460 to 389 pending cases, the lowest year-end total since the close of FY 1979, the Authority's first year of operation. Equally important, continued progress was made in reducing the inventory of cases on-hand that exceeded our established time targets. On April 1, 1986, there were 512 cases which were pending for more than 6 months. On September 30, 1986 that figure had been reduced to 212, a 59 percent reduction. By the end of FY 1987 we expect to further reduce our total inventory to 236 cases and process the majority of our cases within a 180-day time frame. We intend to maintain these levels during FY 1988.

In addition to improving our case productivity, the Authority decided several significant cases that will serve to stabilize the program by providing the necessary guidance to the parties as well as setting longstanding policy guidance in addition to issues of law. In December 1986 we published final procedural rules which reflect input from labor and management that helped to streamline our case handling process.

We will continue to creatively and aggressively manage our docket by targeting issues as well as numbers of cases for disposition. With these highlights in mind, I would like to review each of our major program units: the Authority Members, the Office of the General Counsel, the Office of Administrative Law Judges, the Federal Service Impasses Panel, and Management and Administrative Support.

The Authority Members program unit includes the Office of the Members, Office of Case Management, and the Office of the Solicitor. This program unit is directly responsible for the processing of all cases within the jurisdiction of the Members, from the receipt of case filings and related documents through the issuance of decisions resolving disputes over arbitration awards, negotiability determinations, unfair labor practices, and representation issues. It also includes all activities relating to judicial review or enforcement of Authority decisions. (The Statute grants the Authority the right to be represented by its own attorneys in any civil action brought in connection with any function carried out by the Authority.)

Case intake in the Authority's four case load areas is expected to remain relatively constant through FY 1988 totalling some 530 cases per year. During FY 1987 the Authority expects to eliminate the remaining overage cases and we project reducing inventory levels to 236, a 39% reduction from the end of FY 1986. In FY 1988 we expect to maintain a 180-day processing time standard. Achievement of these objectives will be possible primarily because of the enhancement of the Authority's ADP capabilities, improvements in the case flow techniques used by staff, the compression of review levels caused by a reorganization of Member staffs, the resolution by the Authority of precedential issues and the improved product of a more experienced staff.

The Chairman of the FLRA serves also as Chairperson of the Foreign Service Labor Relations Board, and the staff of

the agency provides support to the Board. The Board, established in section 1006 of the Foreign Service Act of 1980, has jurisdiction over labor-management disputes involving Foreign Service employees and its functions include (1) supervising or conducting elections to determine whether a labor organization has been selected as an exclusive representative; (2) resolving complaints of alleged unfair labor practices; (3) resolving issues relating to the obligation to bargain in good faith; and (4) resolving disputes concerning the effect, interpretation, or claim of breach of a collective bargaining agreement.

The Office of the General Counsel has final authority over the investigation of charges and the issuance and prosecution of all ULP complaints. The Office also investigates and makes the initial disposition on representation petitions; supervises or conducts representation elections and certified the results to the parties; and conducts hearings in representation cases. In addition, the General Counsel directs and supervises the activities of employees in the Regional Offices. General Counsel Miller, in his prepared statement, will address the FY 1988 program and the budgetary aspects of the General Counsel's operation.

The Office of Administrative Law Judges is charged with the responsibility of holding hearings on unfair labor practice complaints issued by the General Counsel and for recommending decisions to the Authority. It is projected that the number of ALJ settlements and decisions will increase to approximately 783 in FY 1988 from 746 in FY

1987. The General Counsel expects to issue more complaints. A full complement of ALJs and more effective use of calendar calls will lead to increased productivity.

The Federal Service Impasses Panel is an entity within the FLRA which is responsible for assisting Federal agencies and unions representing Federal employees in resolving impasses arising out of labor negotiations. It is composed of Chairman Roy M. Brewer of California and Members N. Victor Goodman of Ohio, Robert G. Howlett of Michigan, Daniel H. Kruger of Michigan, Susan S. Robfogel of New York, Thomas A. Farr of North Carolina, and Jean T. McKelvey of New York. All are Presidential appointees and serve on the Panel on a part-time basis. The Panel serves as the Federal sector substitute for the strike/lockout. It should be noted that the workload of the Panel, like that of the Authority, is subject to decisions of the parties to file or not file, and therefore, case filings cannot be controlled. If the mediation efforts of the Federal Mediation and Conciliation Service (FMCS) prove unsuccessful, the Panel will then assist the parties, as required, in resolving the impasse. Resolution techniques utilized by the Panel include informal conferences, factfinding and interest arbitration. The Panel emphasizes voluntary settlement, believing that agreements which are reached by the parties themselves enhance commitments to contract terms. It is projected that in FY 1988 the Panel will resolve approximately 190 impasses, an increase of 20 cases. More on-site assistance and training programs should result in more voluntary settlements. Consequently, the Panel will handle increased numbers of cases while maintaining its

current staff level. The Panel is dedicated to furthering the principles of collective bargaining in the Federal sector and will continue to emphasize voluntary dispute resolution. In addition, the Panel staff supports the Foreign Service Impasse Disputes Panel in resolving negotiation impasses arising under the Federal Service Act of 1980.

The Management and Administrative Support function provides agency-wide support services to the National and Regional Offices. The Office of the Executive Director and the Office of Administration are responsible for the full range of budget, financial, personnel, security, and administrative support services. Of course, accomplishment of our mission depends to a great extent on the effective performance of these support functions.

In summary, I am pleased to report that the FLRA has made significant progress in the reduction of its case inventory and in providing the parties with timely responses to case filings. We fully intend to continue improving our case processing capabilities by further reducing the number and age of our case inventory. We also plan to continue to promote a better understanding of the Agency's role and Federal labor-relations among the parties with whom we deal. We are committed to the principle that it is our responsibility as Federal employees to use our scarce resources in efficiently and effectively in accomplishing our mission at the least cost to the taxpayers. We will continue to seek improved methods to accomplish this objective. To that end, I ask your approval of our budget

request for $17,951,000 in FY 1988 to allow us to continue to meet our mission of promoting improved Federal labor relations.

Mr. Chairman, this concludes my prepared remarks. I will be glad to answer any questions you and the members of your committee may have.

STATEMENT OF JOHN C. MILLER

Good morning. As the General Counsel of the Federal Labor Relations Authority, I appreciate the opportunity to appear before you to present the budget request for the Office of the General Counsel for fiscal year 1988 and to support the total budget request for the Federal Labor Relations Authority. We have already submitted a detailed written budget justification in support of our request. With your permission, I would like to touch briefly on some of the highlights of that justification and make a few observations as well.

Briefly, I would like to outline the responsibilities of the Office of the General Counsel. As an independent component of the Federal Labor Relations Authority, the General Counsel is directly responsible for investigating all alleged unfair labor practices filed pursuant to the Federal Service Labor-Management Relations Statute, the Panama Canal Act, and the foreign service labor-management relations provisions of the Foreign Service Act. Moreover, the General Counsel has direct authority and responsibility for the issuance of complaints resulting from the unfair labor practice charges filed pursuant to the aforementioned statutes. The General Counsel has been delegated responsibility for the investigation and disposition of representation case petitions, the conduct of all representation case hearings and elections, the certification to the parties of the results of representation case elections, and the preparation of Decisions and Orders pursuant to representation case hearings. Finally, the Office of the General Counsel is responsible for the supervision and management of the FLRA Regional Offices, including all employees in the Regional Offices.

The statutory right of employees to organize, to bargain collectively through representatives of their own choosing and to participate in decisions which affect them, safeguards the public interest and contributes to the effective conduct of public business. These statutory protections also facilitate and encourage amicable settlement of disputes between employees and their employers involving conditions of employment. The Federal Service Labor-Management Relations Statute details certain rights and obligations of the employees of the Federal government and establishes procedures which are designed to meet the special requirements and needs of the Government to be efficient and effective. The General Counsel operates in the Federal sector labor-management relations arena to ensure compliance with statutory rights and obligations of Federal employees, labor organizations which represent those employees, and the Federal agencies falling under the jurisdiction of Title VII of the Civil Service Reform Act of 1978.

The budget request for the Office of the General Counsel for fiscal year 1988 provides for 143 full-time permanent positions and totals $7,729,000, excluding the costs of centrally funded items (GSA space, FTS communications, penalty mail, etc.). This request reflects a reduction of two positions in fiscal year 1988, which will be offset by an increase in productivity levels within the Office of the General Counsel. The request for $7,729,000 reflects an increase of $384,000 over the level requested for Fiscal Year 1987. The increase in funds is requested to cover the costs of only two items -- (1) the annualization of the pay raise effective in January 1987, $196,000; and (2) the increased costs of personnel benefits resulting from the implementation of the new retirement program for Federal employees, commonly referred to as FERS, $268,000. These two increases total $464,000, $80,000 more than the total request for the Office of the General Counsel. The difference reflects the savings from the reduction of two positions, and the ability of the Office of the General Counsel to absorb the costs of all other mandatory increases.

At the outset, I want to stress my support for the President's budget request. It is a fair reflection of the needs of the Office of the General

Counsel, and of the total requirements for the Federal Labor Relations Authority. This is the fourth year in which I have testified before this Committee on the budget request for the Office of the General Counsel. In each of the previous three years, I have been able to request less from the Congress than in the year before. Were it not for the FERS increase, my request this year would be the smallest which I have ever made. Despite the increase of $268,000 for the cost of FERS, my budget request this year is only $73,000 above my request last year. I am comfortable with the fact that I have trimmed costs, and have improved efficiency and productivity within the Office of the General Counsel. When I first testified here four years ago, I requested 169 full-time permanent positions and $8,174,000 for the Office of the General Counsel. My request this year reflects a reduction of 15% in full-time permanent positions, and a reduction of 5% in budget authority from those levels, despite the impact of FERS. While improving the efficiency and productivity within the Office of the General Counsel, I have improved the timeliness of our case-processing activities and increased the voluntary settlement rate which is essential to the success of our program.

Despite the slight increase in this year's budget request, the cost factors on which this budget is based are 9% better than the comparable factors contained in my FY 1987 budget request. When I first testified in April 1983, the median age for the ULP caseload was 74 days, and a 75-day time target was in effect. In 1986, the median age for the ULP caseload was lowered to 63 days, an improvement of 15%. Intake has remained relatively stable during my four-year tenure as General Counsel -- 5,710 cases in FY 1983, 5,524 cases in FY 1986.

As I mentioned earlier, the two positions which we are releasing in FY 1988 are being reduced in conjunction with continued projections for productivity enhancements. The forecasts contained in the budget are realistic. I am eliminating one position from my Headquarters staff, and I believe that this realignment will not have an adverse effect on my responsibilities to direct and coordinate all aspects of Regional operations. The loss of the second position is projected to have an impact on the timeliness with which we are able to

prosecute cases found to have merit. Although not great, the backlogs in this workload area are projected to increase by roughly one month over levels being seen currently. We anticipate that the backlog in this area will approximate the backlog in ULP complaint dispositions when I became the General Counsel in Fiscal Year 1983.

We project that complaints will be issued in 712 ULP charges in FY 1988, comparable to complaint issuances in Fiscal Years 1983 and 1984. Of these 712 complaints, we anticipate that 81 will be in actual backlog status at the end of the fiscal year. Total case processing timeframes for ULP complaints could reach roughly three months from issuance to hearing. We are seeing this increasing trend already -- in FY 1986, hearings were held generally 50 days after complaint issuance; through the first quarter of FY 1987 this factor has already increased to 77 days. In general, our median age factors increased during this quarter, in line with projections contained in our budget submission.

In looking at our budget request for Fiscal Year 1988, it is important to stress that the Office of the General Counsel is a "labor-intensive" organization. Of its total budget request of $7,729,000, $7,002,000 is requested to cover the costs of personnel compensation and benefits -- over 90% of the total request. A total of $415,000 is requested for travel vital to success of the program -- the travel request equals another 5.4% of the total budget request. These two items, travel and personnel, account for 96% of the total budget. Library subscriptions for the law libraries in the Regions are projected to cost $67,000 and maintenance contracts on existing equipment are projected to cost $99,000 in Fiscal Year 1988. These two items equal another 2% of the total budget request for the Office of the General Counsel -- no increases were assumed in the areas of travel, subscription costs or maintenance contracts in FY 1988. In total, four areas account for over 98% of the budget request for the Office of the General Counsel -- personnel compensation and benefits, 90.6%; travel, 5.4%; library subscriptions, 0.9%; and maintenance contracts, 1.3%. Virtually no discretionary expenditures remain in this budget.

As outlined earlier, the requested increase of $384,000 in Fiscal Year 1988 is required solely to cover the cost of the pay raise effective in January 1987 and to cover the cost of new Federal Employees Retirement System (FERS). The costs of all other mandatory increases for the Office of the General Counsel will be absorbed in Fiscal Year 1988. In addition, many other types of expenditures have been eliminated. Summarized below are the types of expenditures which have been absorbed or eliminated in the budget request for Fiscal Year 1988 --

1) no increase is requested to fund the costs of career-ladder promotions and within-grade increases projected to be effective in Fiscal Year 1988;
2) no funds are provided for SES bonus payments nor for cash awards of any sort;
3) no funds are provided for employee training and development;
4) no funds are provided to fund permanent changes of station for our staff, important in a small agency when vacancies occur in key positions; and
5) no funds are provided for payment of fees under the "Equal Access to Justice" Act.

In looking at this budget request, any reductions will have an adverse effect on our operations. Funds remain in the budget for mandatory costs only -- reductions in the budget will be taken in reduced funding for authorized positions, which will result in increased backlogs.

With these thoughts in mind, I would like to express some specific observations regarding the preparation of this budget request. First, the Office of the General Counsel has no control over the size of its intake. The total intake has remained stable in recent years, although the nature of the cases being filed has changed as interpretations of the Statute have changed.

In looking at the impact of this budget request on the workload requirements for the Office of the General Counsel, I will continue to assign the highest priority to the processing of representation cases, including the expeditious investigation of all petitions, conducting elections and representation case hearings, and issuing final decisions in all cases involving

such hearings. This budget request provides the resources necessary for the timely processing of this workload -- with essentially no backlogs developing in any representation workload areas.

With respect to the unfair labor practice workload, case processing timeframes in general are projected to approximate those seen in Fiscal Year 1986 -- slightly higher than desired time targets, but with very few backlogs developing. A slight backlog is projected to develop in the prosecution and settlement of ULP charges found to have merit where voluntary settlement could not be obtained prior to the issuance of complaint. In these cases, a backlog of roughly ten weeks could develop from complaint issuance to hearing.

With these timeframes in mind, I would like to take a brief look at the case flow for the Office of the General Counsel, and to focus on our principal challenges in processing this caseload. When an unfair labor practice charge is filed, it is investigated and, if found to be meritorious, the parties are encouraged to settle voluntarily without further action. Roughly two-thirds of all charges found to have merit are settled prior to the issuance of complaint. When a complaint issues, settlement efforts are continued. The total settlement rate for our merit caseload was 92% in Fiscal Year 1986, the third consecutive year in which this factor has exceeded 90%. Where settlement can not be obtained prior to hearing, the complaints are prosecuted by the Office of the General Counsel in a hearing before an administrative law judge. Only eight percent of all merit charges, less than three percent of all ULP charges in total, cannot be settled voluntarily and must be referred to the Authority for final decision. In Fiscal Year 1986, 5,205 ULP charges were received -- only 139 were transferred to the Authority. Hearings were held in 119 complaints, and 18 complaints were stipulated directly to the Authority. Motions for summary judgement were obtained in the remaining two cases.

Cases found to be without merit are voluntarily withdrawn or are dismissed. Historically, roughly 55% of all cases determined to be without merit are withdrawn. The remaining 45% are dismissed and, of that number, approximately

35% are be appealed to the General Counsel. Outlined below is a percentage distribution of the outcomes of 100 ULP charges, using actual experience in Fiscal Year 1986. This table summarizes all initial and secondary actions.

Merit cases..... 36
- Pre-Complaint Settlements..... 25
- Complaints..... 11
  - Post-Complaint Settlements..... 8
  - Hearings/Stipulations to Authority..... 3
    - Violations Found..... 2
    - No Violation Found..... 1

Cases Determined Not To Have Merit..... 64
- Withdrawals..... 36
- Dismissals..... 28
  - No Appeal Filed..... 19
  - Appeal Filed..... 9
    - Region Sustained..... 8
    - Region Reversed/Case Remanded..... 1

Briefly, I would like to review some of our accomplishments in Fiscal Year 1986.

-- During the year, 5,524 cases were received. This total did not include 95 cases which were deficient when received and were not made sufficient prior to the end of the fiscal year. Intake in the Office of the General Counsel has remained relatively stable through the past four years, fluctuating between 5,524 cases in FY 1986 and 5,710 cases in FY 1983, a variance of less than 4%. Unfair labor practice charges totalled 5,205 cases in FY 1986, 94% of the total intake.

-- A total of 5,360 dispositive actions were taken in Fiscal Year 1986, 421 cases below the comparable total of a year ago. The decrease in dispositive actions, 7.3%, was markedly less on a percentage basis than the drop in available staff, 12%. The increase in productivity among the remaining staff offset part of the decrease. Of the dispositive actions in FY 1986, 67.5% (roughly two-thirds) were taken within 75 days of the date of filing. This factor was slightly below the FY 1985 factor of 71%. Five percent of all dispositive actions required more than four months from receipt to dispositive action.

-- A total of 1,012 cases were pending without dispositive action at the end of Fiscal Year 1986. Although this total was 164 cases above the comparable total of the previous fiscal year, and was the highest total for the Office of the General Counsel in the last four years, only 41 pending cases were over-age (unblocked and pending for more than 75 days). The over-age cases equalled 4% of all pending cases. The increase in this pending caseload reflected the potential for an increase in backlogs if case intake should increase sharply, because the available staff are meeting the increased productivity levels and pending cases are still becoming larger.

-- The median age factors remained at very low levels in FY 1986 --

63 days for the unfair labor practice caseload;
44 days for the representation caseload;
33 days for representation case hearings, from issuance of notice;
53 days for ULP complaints from issuance to hearing; and
76 days for representation case decisions, from close of hearing.

-- The Office of the General Counsel completed its first full year under operation of the new procedures governing the handling of deficient cases. In addition to being able to dispose of cases which were deficient on their face, less than two percent of total intake, the renewed emphasis on the sufficiency of charges resulted in more concise allegations, which reduced required investigatory time.

-- The initial stage of the decentralization of the automated case tracking system was completed. Direct access to the case tracking data base was provided to all Regions. The total cost for developing and implementing the Regional case tracking system, which handles roughly 6,000 new cases on an annual basis, equalled less than $50,000. This total included all design work and all contractural programmer support. The system is designed so that maintenance of the system is handled by in-house staff who are required to devote less than one staff-year of effort in total to the operation of the system.

-- The Office of the General Counsel relinquished more than 4,000 square feet of office space during Fiscal Year 1986. Space was released in conjunction with the renegotiation of lease agreements. Relocation costs and space renovation costs were kept to a minimum.

-- In addition to all of the accomplishments above, the Office of the General Counsel accrued savings in the amount of $52,000 in Fiscal Year 1986 - all but $5,000 of the total savings accrued in the FLRA. The savings shown above does not include the savings accrued from relinquishing over 4,000 square feet in space during the fiscal year -- we do not know the amount of these savings.

This concludes my formal statement in support of the President's budget request for the Office of the General Counsel for Fiscal Year 1988. I would note that the very high settlement rates combined with productivity increases by the staff were responsible for maintaining the timely processing of our cases and controlling our case backlogs. This budget is essential to our continued ability to perform our mission. With the continued support and assistance which this Committee has provided in the past, I pledge that my staff and I will continue to strive to meet our responsibilities and the challenges ahead. Thank you for your attention. I will be happy to respond to any questions which you may have.

BUDGET REQUEST

Mr. CALHOUN. OK. I do appreciate, Mr. Chairman, the opportunity to appear before you today to discuss our 1988 appropriation request for the Federal Labor Relations Authority. I would like very much, if I could impose upon your time, to read a brief statement into the record, sir.

Senator DECONCINI. That will be fine, yes, if it is a summary of your full statement. We will put the full statement in the record.

Mr. CALHOUN. OK. The request before you is for $17,951,000 and 273 full-time permanent positions. The number of positions requested is a four position reduction on our current authorized level.

The $1,485,000 increase in our budget is for the costs of the new Federal Employees' Retirement System, our urgent need to upgrade our current ADP system, and our space reduction efforts, consistent with Executive Order 12411.

Since I appeared before this committee for the first time last year we have made substantial progress in meeting our goals throughout the agency, particularly with respect to the timely issuance of our decisions.

Without reciting a lot of statistics, I think it is important to note that we have knocked off almost 1 year of the average age of cases before the Authority on its docket; we have reorganized the Authority to reduce the levels of review of our decisions and case processing; we now have the lowest case inventory since the Authority was established in 1978; and, we have revised the regulatory scheme of the agency to better meet the needs of our practitioners in the field as well as to streamline our internal operations.

The budget we have submitted will allow us to accomplish our mission in an effective and expeditious manner and consistent with the requirements of the total Federal Management Labor Relations Program. Our two major objectives in the administrative area this year will be to upgrade our current ADP system and to reduce headquarters space. Both of these items are detailed in our formal submission.

There has been a lingering issue in our agency and I think that there has been a suggestion to this committee that our relatively small budget be further segregated by administrative costs, by component and that these costs managed individually among the components without regard to the needs of other components or elements of the agency. I would like to comment on this notion if I could.

I maintain that such a concept is clearly an unacceptable way to manage our agency, to manage its budget and to manage its central administrative costs. I would like to go on record that I am opposed to this concept. I have opposed it in the past, and I would like you to know that OMB has reviewed this idea and has rejected it as well.

I have stated to the staff of this committee on at least two occasions, and as reflected by our budget submission, I believe, and the Office of Management and Budget agrees, that it is clearly more efficient and economical for our agency as a whole to administer certain functions centrally, such as accounting, procurement, personnel management,

space rental, and postage. In the central administrative area, our operations beg for economies of scale and any further division or separation of such a small agency would render this impossible.

In the past the Authority and its components have reached agreement internally and the Office of Management and Budget has agreed and has approved our budget as it has been submitted and I think we ought to follow that. It is my view that the entire process that our budget goes through would be dealt a disservice if the product of that process is allowed to be turned on its head by those who say they support the budget but work outside that process for a different result. What is mystifying about such a proposal is that there is no identified productive objective. It does not correct a problem or an abuse, nor does it enhance anybody's ability to do their job better.

In this period of declining resources I think we need to seek ways to manage costs effectively and not to construct impediments for good management.

In my view we cannot afford the luxury of operating as a loose confederation of self-interests within the context of the Federal Labor Relations Authority. We have to at least attempt to work together for mutual accommodation and to pursue the concept of cost effectiveness in discharging the duties and the responsibilities that Congress has charged us with.

I would be happy to answer any of your questions.

Senator DECONCINI. Thank you, Mr. Calhoun. I appreciate your testimony.

Mr. Miller, would you like some equal time?

BUDGET SUMMARY FOR OFFICE OF GENERAL COUNSEL

Mr. MILLER. Yes; I believe I would. First of all I have a formal statement which I will present for the record, and I will just skim over it and just hit the highlights.

On page two, the budget request for the Office of General Counsel for fiscal year 1988 is 143 full-time positions, and the total of $7,729,000, excluding the costs of centrally funded items—and that is the topic that Chairman Calhoun touched on briefly—GSA space, communications, penalty mail.

This request reflects a reduction of two positions in fiscal year 1988 which we hope to offset with an increase in productivity. Our request this year for the General Counsel's Office, $7.7 million, is an increase of $384,000 over the level requested. That increase in funds is for two items—the annualization of the pay raise of $196,000, and the implementation of the new retirement program, FERS.

These two increases are $464,000—$80,000 more than we requested. I, of course, stress my support for the President's budget request. This is the fourth year in which I have testified to this committee on the budget request and each of the previous years I have been able to request less from the Congress than the year before.

Were it not for the FERS increase, my budget request is only $73,000 above my request last year. I am comfortable with the fact that I have trimmed costs and have reduced my full-time permanent positions 15 percent over a period of years.

Moving on to page five, in looking at our budget request, like the rest of the Authority, we stress that the General Counsel is a labor-intensive organization. Our budget request is $7.7 million, $7 million of which is for personal compensation and benefits. When we add travel to that, travel and personnel costs account for 96 percent of our total budget. That does not leave us very much for discretionary items like library subscriptions and so forth.

One other thing, on page six, in looking at our budget request I just want to point out, since we are taking a reduction of two personnel, any further reductions will have an adverse effect on our operations. Funds remain in the budget for mandatory costs only.

Senator DECONCINI. Thank you.

SEPARATE BUDGET ACCOUNTS

Mr. MILLER. Now, with respect to the comments of the Chairman, I would like to point out that in 1983 the budget requests were split off and based on a reimbursable basis. Second, this is the argument also made before the NLRB split and became a separate General Counsel, before we had this big fuss with the Office of Special Counsel. You recall the former Office of Special Counsel had to file in district court before they finally settled it and broke off the budget request for the General Counsel.

Now, in my particular function, 94 percent of what the Office of the General Counsel performs is specified by the statute. We perform only 6 percent delegated functions from the Authority, which is essentially in the representation case field. We conduct elections. For example, there will probably be a forthcoming election involving the air controllers in the next few months. We conduct that on the basis of a delegation from the Authority.

Also, I would like to point out that fact that 52.5 percent of the budget goes to the General Counsel, not including direct funded costs for personnel and so forth, which we are not asking for. But Chairman Calhoun's argument that it would lead to inefficiencies is a bunch of baloney in my estimation. In fact, I have George Baily on my left here who was a controller for over 15 months and he said there would be no additional costs in breaking out our money.

If I might draw an analogy, the Chairman—it is like a family situation where the father says, all right, you two will get a certain allowance—I get an allowance of $7 million—and your big brother is going to determine how much of that money you can spend.

For example, on space rental costs we cannot even find out from the Authority what our space rental costs are. We cannot determine our productivity because what they like to do is if we are given $1 million for space and we only spend $750,000, they keep the $250,000. And that is what they call administering.

Now, we get no direct reflection of our managerial ability. For example, we have reduced space costs 21 percent over the last 3 years in the regions. Every time a lease has come up we have cut our space 1,000 to 2,000 square feet or to the best extent we could.

We think we should at least share in that savings and not have the Authority say, "Well, we need a new ADP, we have decided to do this from space savings." Administrative support which already is 9 percent of the cost of the budget, should have more money or more positions.

So, in effect, what I am saying is while we get an allowance, they will not tell us how much of our allowance we have spent. They will not tell us, and then they are able to keep the difference. As background, I have been both an interim Chairman of the NLRB, I have been Acting General Counsel of the NLRB. This problem is not present there because this battle was fought and the General Counsel was made statutorily independent.

Mr. CALHOUN. That is not true.

Senator DECONCINI. Well, Mr. Miller, you know the problem I have is that you guys are causing us a lot of pain and suffering. Maybe that does not make any difference to you, but it is going to. I have not talked with Senator Domenici about it but it is a silly thing for you guys—grown people with the same objective, to serve your Government—not to get along. And that is a lecture and you can take it as such.

If we follow your line of thinking then we ought to have a separate agency for the Office of Administrative Law Judges—I mean a line item for that—and the Federal service impasse panel, and the management and administrative support. Now that is ridiculous.

If you guys cannot get together you ought to be replaced, as far as I am concerned. You have a job to do and I am not going to tolerate it. I do not have control over you except in the funding area. And as far as the equivalence here of space, if you need more space he ought to give it to you. And if you give him space back, he is the manager, as far as I see this thing.

And if you cannot rent your next space in Phoenix or San Francisco and you have to spend more money and you go to him, he ought to give it to you. And if he cannot get it, he ought to come here. I just think it is silly, myself, and I do not mind telling you so. So you are not going to get any sympathy from me for splitting it, and you are not going to get any sympathy from me for not cooperating with him, either.

Mr. CALHOUN. I do cooperate.

Senator DECONCINI. Well, apparently he has got a complaint. So, obviously, you guys cannot talk and work together and you ought to be men enough or big enough to find some common ground to make this thing work.

Mr. CALHOUN. As he pointed out, this problem has existed since 1983. It certainly predated me and it is nothing personal. It is an issue that has arisen because, I believe, our General Counsel—and he can certainly speak for himself and he has—believes that because MSPB operates a certain way, his experience at the Board has operated a certain way, that this agency should operate as a mirror image. And that, in my view, just does not wash.

If he wants an NLRB situation he ought to work in the NLRB. If he wants to work in this agency, we are here to work with him and we have been cooperative.

Senator DECONCINI. Well, obviously, he does not think so and obviously you think you have. So, you are at an impasse and——

Mr. CALHOUN. Yes; the thing is not a matter of cooperation. It is a matter of how he wants this agency run, and I cannot get beyond that point.

Senator DECONCINI. Well, what you two gentlemen have done, is create a controversy that I think is jeopardizing the ability of your agency before Congress. I do not have a resolution for it. Splitting it, to me, is not a resolution. That is a copout if we do that.

My only concern is that we try to find a resolution, and if we have to direct you in report language or bill language, I know that is not going to work. You have got your back up if you have got your back up, you lay the cards on the table and you work out an arrangement. You do not have to love everybody to get along—I know that—especially in Government.

Mr. CALHOUN. If there was an issue of programs or an issue of substance, you know, you can work it out. There is not an issue of substance. The issue is who gets control of what and who is answerable to whom.

Senator DECONCINI. Well, you know how it is, Mr. Calhoun, when you manage something and if the people that you are managing do not feel they are getting a fair shake or fair consideration, their morale is not very good and they are not very happy.

Mr. CALHOUN. I certainly understand that, sir.

Senator DECONCINI. I cannot tell you how to manage things, but when you manage things you have to give answers and communication and explanation and hopefully——

Mr. CALHOUN. That works two ways.

Senator DECONCINI. That is right. Hopefully they will absorb that in a meaningful way and take it for what is offered. I am not saying that you are not doing that.

Mr. CALHOUN. All I can ask—and I do appreciate you telling us to work it out between ourselves. If that is the order, I accept that and we will continue to attempt to do that, sir.

Senator DECONCINI. Well, I will talk to Senator Domenici. I am not ordering anybody yet, and I do not know that I can order you. It is a difficult situation and I do not sit here pretending to have an answer, nor do I want to appear that I do not care how it comes out, because I really do.

In the continuing resolution statement, a manager sets out a specific amount of money and positions for the Office of the General Counsel. Yet I see nothing in the language of the continuing resolution or our Senate Report, 99–406, which indicates the ultimate control of the Authority's budget and the allocation of resources within the component parts of the agency should not rest with the Chairman. That is the way I understand it.

Mr. MILLER. I would like to point out that the GAO has conducted a study and issued a report and said there is nothing to indicate that the Chairman has control over the General Counsel's budget. In fact, that the emphasis is the other way, that simply if you have statutory independence but you do not have any money, you do not have statutory independence.

Senator DECONCINI. Well, I have not seen anything in the law that gives it any other way, have you?

Mr. MILLER. Well, I was present when the law was amended to permit then Chairman Mahone—she wanted additional authority because she said she could not make a decision on the Authority's side. And so, GAO went over that legislative history and said there is nothing there to indicate that that was a reason to give the Chairman authority over our budget.

Senator DECONCINI. Well, the legislation is fairly clear. You do not have to be too learned in the law. It says: "The Chairman is the chief executive and administrative officer of the Authority." That includes you, right?

Mr. MILLER. There are two terms of the Authority, the Federal Labor Relations Authority. The Authority is sometimes used generically as the whole thing and sometimes when the Authority issues a decision, they are talking about it as being only the Authority members.

Senator DECONCINI. It says right here, "The General Counsel of the Authority shall be appointed by the President." So it seems to me that you work for this same Authority that the Chairman is the chief executive administrative officer.

Mr. MILLER. Well, of course, I disagree with that, but that is your interpretation of it.

Senator DECONCINI. That is my interpretation. Anyway, I am going to discuss it with Senator Domenici and we may get back to you. If we can help resolve it, I am interested in doing so.

Mr. MILLER. I surely do concur in most of your comments, but one other thing, I notice that in this conference language we were given some $8 million and as to date we have been authorized $7 million, so that the Chairman is not abiding by the legislative report.

Senator DECONCINI. Well, I am recommending for the balance of the current fiscal year that the Chairman take steps necessary to adhere to the spirit of that report language, Mr. Chairman, in the continuing resolution, by assuring that the Office of General Counsel earmarked funding level is maintained. And I am very serious about that. So if they have money earmarked for them, this chairman expects it to be transferred to them.

And at the same time, I think the Chairman must be able to manage the agency resources, including the resources that are targeted for various program activities within your agency, including the Office of General Counsel. I would hope that the Chairman and the General Counsel will put their differences behind them, but I can tell by the spirit of this hearing that it is going to be difficult to do, but that is my hope.

Mr. CALHOUN. Could I make one suggestion?

Senator DECONCINI. Sure.

Mr. CALHOUN. I think you need to talk about how the language arrived in the report language. I think that is important to understand that it certainly was not the will of the then chairman of this committee and it certainly was not the will of any other elected official who is responsible to exercise authority over that particular piece of legislation.

Second, it is a very arbitrary number and what it causes to do is that we have an operating plan that is built up on assumptions, that is built up on past experience, and we have a very small agency and we have a very extensive number of pieces, all of whom have to enjoy the benefits of that centrally administered fund. And what you are going to do, sir, is that you are going to cause somebody else to give something up to respond to what you have just said you want us to do.

Senator DECONCINI. Well, I think it is very clear what the report language said to do.

Mr. CALHOUN. I understand what the report language said.

Senator DECONCINI. I cannot say that that is the best thing nor would I write that report language today. You have other alternatives. You can send reprogramming up here and that sort of thing, but as far as I am concerned, I am stuck with what we did last year.

I do not particularly like it, because I do not like Mr. Miller's attitude on the whole subject matter, and I think you are the chief executive here. I have got to live with this report language, but I can tell you, if I have anything to do with it, it is going to change.

I have not talked to Senator Domenici. He may feel the other way. But it seems to me that today you have got a responsibility based on what Congress told you to do and I would expect that you ought to do that. And at the same time I am going to tell you that I am not going to support the division of this agency and line iteming it in the manner that we have done in the future. I think it is a bad scene.

Mr. CALHOUN. I appreciate that and I respect that and I will certainly adhere to it. But what I am intending to do, sir, is to submit reprogramming to correct what I believe is a problem, not for the General Counsel, but I think for FSIP, for the panel, for the administrative law

judges, as well as the Authority, all of whom have statutory responsibilities, all of whom had input into building that operating plan.

And we got that by consensus, we submitted it to OMB, they reviewed it, we went through similar hearings with them. And then, somebody, based on some family tie, decides that they want something else.

Senator DECONCINI. Well, unfortunately, family tie or not——

Mr. CALHOUN. That is just not the way we progress in this program.

Senator DECONCINI. Family tie or not, the fact is that the report language is pretty darn clear.

Mr. CALHOUN. It is very clear.

Senator DECONCINI. Maybe there were some close friendships or ties there. I do not know that will happen next year, but I agree with you. You are the manager, but I am stuck with what I see as the law today. But there is going to be another Chairman, and I hope that it is going to be a little different.

ADDITIONAL COMMITTEE QUESTIONS

Thank you. I have no further questions. Please respond to Senator Domenici's questions for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Question: Mr. Calhoun, the Authority is responsible for administering Title VII of the Civil Service Reform Act and for serving as a third party neutral in the resolution of labor-management disputes arising among unions, employees, and Federal agencies. For these functions, the President has proposed a budget of $17,951,000 and 273 positions -- an increase of $1,485,000 or about 9% over current levels.

Q: What was your original request to OMB; where did they cut you back, if at all; and why? Be specific.

Answer: (by Mr. Calhoun, Chairman): The FLRA's FY 1988 OMB request was for $17,963,000 and 277 FTEs. This request was developed based on the then pending FY 1987 request before Congress for $17,064,000 and 277 positions. The Congress subsequently appropriated $16,330,000, the same funding level as FY 1986. OMB used this level to base its initial FY 1988 allowance ($16,891,000). To the $16,330,000 level OMB added funds for an ADP upgrade ($575,000) and for space renovations ($90,000). OMB also provided funds for non-discretionary cost increases ($56,000). Funding for these items were partially offset by an FTE ceiling reduction of 4 ($160,000) to reflect productivity gains and caseload adjustments.

Subsequently, the FLRA appealed to OMB for $1,293,000 in funds to cover the impact of the January 1987 payraise, the new Federal Employees Retirement System and a technical adjustment to cover non-discretionary increases. Based on these requests OMB approved an additional $1,060,000 to help meet costs related to those expenses bringing the FY 1988 level to $17,951,000 and 273 positions.

In summary, our request reflects a decrease in staff funding for two one time requirements (ADP upgrade and space renovations), rent rate increases and the impact of the FERS program which is expected to increase benefits as a percentage of compensation from 10.7% in FY 1986 to 16.0% in FY 1988.

Question: Mr. Calhoun, this will be a tough budget year with little room for growth even to pay for mandatory items such as FERS and payraise annualization.

Q: What would be the specific impact on the operations of the Authority if you were given last year's level with, say 3% inflation, rather that the President's budget? Where would you cut back to accommodate this funding level? (Freeze $16,436,000 plus $493,000 = $16,929,000)

Answer: (by Mr. Calhoun, Chairman): The FLRA's FY 1987 funding level including the pending payraise supplemental is $16,466,000. Allowing for a 3% inflation factor would translate to a $16,960,000 level in FY 1988 ($494,000 increase).

The FLRA request for $17,951,000 is $1,485,000 more than the FY 1987 level. The increase is divided between $910,000 for non-discretionary increases and $575,000 for an ADP upgrade. A 3% inflation allowance would fund only one-third of this requirement.

We face a series of mandatory cost increases amounting to $943,000 in areas such as the full year impact of the January 1987 payraise, FERS, periodic pay increases, and RENT rate increases that cannot be deferred. In addition, if we fail to complete the space reduction effort, FLRA's FY 1988 RENT costs would increase by another $100,000. These costs less decreases in some items ($33,000) leaves a

net increase of $910,000. This means we would have to absorb another $416,000 to operate at a level of $16,960,000. At this funding level we would have to reduce at least 10 positions. (3.6% reduction)

These actions would, of course, only meet part of the total reduction from our request. The upgrade of the Authority's ADP system ($575,000) would have to dropped. In my opening statement I summarized the findings of an ADP study which detailed our ADP needs. I also outlined the benefits we expect to receive from an upgraded system. At this time we are unable to attach any additional terminals or printers to the existing system. We explored via the ADP study incremental expansion and found the costs associated with this approach to be prohibitive, and deterioration in system response time. The system which serves as our main case processing and research tool rarely has a terminal not in use. Thus, we are faced with upgrading to the next larger line of computers which will answer our needs and allow us to use current equipment. Given the cost of such a system, we cannot save the costs for a system in a fiscal year.

Extremely aged and inefficient equipment, and a lack of adequate data processing capabilities will continue to grow more unacceptable to an increasingly computer literate work force. Opportunities to improve the word processing software and to expand system capabilities through networking and telecommunications will be delayed. We would be faced with using a system which will become increasingly dysfunctional thereby inhibiting the Authority's ability to meet case processing timeframes. As an example, we experienced 4 1/2 days downtime which are nearly 25% of the available work time during the month of February 1987. Also, Authority would not have the database capabilities it needs to monitor workload and case trends.

Question: You are asking for $4.5 million for management and administrative support next year -- an increase of about $740,000 or 20%. A big chunk of this -- $506,000 to be exact -- will go for upgrade of the FLRA ADP system.

Q: Can you tell us about the balance of this large percentage increase in the management and administrative support function?

Answer: (by Mr. Calhoun, Chairman): The costs associated with the Management and Administrative Support unit are projected to increase by $734,000 from FY 1987 to FY 1988. The projected increase is associated with the ADP upgrade ($575,000), RENT increases ($137,000), space renovations ($35,000), and staff compensation and benefits ($19,000). These costs are partially offset by decreases in the areas of telecommunications ($10,000), printing ($2,000), payments to the Postal Service ($2,000), adjustments in other services amounting to ($8,000), transportation ($7,000) and equipment replacement ($3,000).

FY 1988 Net Change	$734,000
Increases	$766,000
ADP Upgrade	575,000
RENT	137,000
Space Renovations	35,000
Compensation/Benefits	19,000
Decreases	$ 32,000
Telecommunications	10,000
Postal Service Payments	2,000
Printing	2,000
Transportation	7,000
Equipment Replacement	3,000
Other Services	8,000

Question: You are asking for an increase of $94,000 for Other Services - an increase of 18% over last year.

Q: What are the pieces that make up this large percentage increase for Other Services?

Answer: (by Mr. Calhoun, Chairman): The increase in this category is tied to FLRA's two major FY 1988 initiatives: space reduction and ADP upgrade. The funds for space renovations ($35,000) are tied to our effort to reduce 8,000 square feet of space at our Headquarters Office. This reduction will enable us to partially offset the anticipated increase in our space bill by $100,000 leaving a net increase of $137,000 and will move us toward the Administration's space consolidation program goals.

As part of the $575,000 ADP upgrade we are requesting $67,000 for installation, maintenance and training costs. Except for the maintenance costs associated with the upgraded system these costs constitute a one-time request. The remaining $508,000 will be used to purchase the ADP equipment/software ($506,000) and supplies ($2,000).

The space renovation and ADP costs are offset by a decrease of $8,000 in areas such as personnel investigations and Department of Labor payments. Each of these initiatives will allow us to restrain and hopefully reduce future space and personnel costs and enhance staff productivity.

FY 1987 estimate	$530,000
Increases:	
Space Renovations	$ 35,000
ADP Upgrade	67,000
Decreases	- 8,000
FY 1988 request	$624,000
Net Change	+ 94,000

Q: How were you able to save 8,000 square feet of space at your headquarters?

Answer: (by Mr. Calhoun, Chairman): We have started a project at our Headquarters to reduce approximately 8,000 square feet of space by early FY 1986. We are able to reduce space because of a reduction in personnel over the past few years and a decision to allocate less space per work station.

This effort is being undertaken to reduce space consistent with the Administration's space consolidation program. Also we face substantial cost per square foot increases in FY 1988 which could amount to $237,000. The reduction of 8,000 square feet will enable us to avoid $100,000 of that cost. So the net increase is projected at $137,000.

Question: Mr. Calhoun, in fiscal year 1987 Congress only provided one appropriation account for salaries and expenses of the FLRA. Yet the Office of the General Counsel testimony is written as if there were two appropriation accounts-- one for the FLRA and one for the Office of the General Counsel.

Q: What is the Administration's position regarding the need for two, rather than one appropriation account for the Authority and what is your view?

Answer: (by Mr. Calhoun, Chairman): I believe and the Administration agrees that it is clearly more efficient and economical to have one appropriation account. The Office of Management and Budget has consistently supported this position as reflected in the budget submission and supported the principle that this agency includes the General Counsel. As further evidence of this support, witness the speedy approval of our reprogramming request to amend the provisions of the FY 87 report language which establish separate accounts. One appropriation account yields economies of scale that can be used to focus resources on a specific situation or problem. With two accounts, the Agency would not have the flexibility to adjust to changing needs in a segment of the organization. Two separate accounts would require the billing of administrative services to each component that currently can be centrally funded. In a number of situations costs can not be segregated to the extent that would be necessary in order to properly allocate expenditures. Consequently, artificial methods of staffing ratios, workload splits or some other formula would need to be worked out to allocate costs which might or might not accurately reflect real obligations.

The provision of administrative services would be hampered by differences in methods of providing services. Cooperation and agreement among the components of the Agency will not be fostered through further division and separation of our appropriation account. In my view and that of the Administration the division of our single appropriation into two separate accounts would be inconsistent with the President's and the Congress' commitment to integrity and efficiency in Government.

QUESTION SUBMITTED BY SENATOR PETE V. DOMENICI

Q. Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

A. The Administration supports a biennial budget process. Such a process would be very beneficial to the Federal Labor Relations Authority. Budget stability over two years would allow better planning for and management of our resources. Initiatives spanning several years would not be troubled by uncertain funding. In a tight budget climate, we could economize more easily if we had two years in which to work.

Q. Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submissions?

A. But for special nonrecurring items which surface infrequently, all of FLRA's annual appropriation request is repetitious of the previous year's submission. Our caseloads throughout the agency have been stable for several years. The ADP upgrade and space reduction project discussed in our FY88 request are examples of special nonrecurring items which would not appear in each year's request.

Q. What difficulties can you foresee in preparing and submitting the two-year budget to the Congress?

A. Since our caseloads have been stable for several years, we believe we can forecast future workloads without significant difficulties. If a supplemental appropriation request mechanism were available, we could handle the unexpected

dramatic increases in workload or changes in program requirements which occur rarely.

Q. If you oppose the biennial budget concept, please give this subcommitte your reasons why.

A. I do not oppose the concept.

U.S. TAX COURT

STATEMENT OF HON. SAMUEL B. STERRETT, CHIEF JUDGE

ACCOMPANIED BY:

CHARLES S. CASAZZA, CLERK OF THE COURT
PAUL NEJELSKI, COURT ADMINISTRATOR
WASHINGTON B. BOWIE, BUDGET AND ACCOUNTING OFFICER
D. BRUCE SMOKE, ASSISTANT BUDGET AND ACCOUNTING OFFICER

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. The next witness will be Chief Judge Sterrett of the U.S. Tax Court.

Judge Sterrett, welcome. Please introduce your fellow witnesses and your full statement will appear in the record. You can either summarize it, or you may even read it.

Chief Judge STERRETT. Thank you, sir. This is the summary of a summary if I may say so.

Senator DECONCINI. Oh, we have a longer one I see.

Chief Judge STERRETT. Yes, sir.

Senator DECONCINI. Go right ahead.

Chief Judge STERRETT. Thank you, sir. Mr. Chairman, my name is Samuel B. Sterrett. I appear in my capacity as chief judge of the U.S. Tax Court. On my left is Charles Casazza, the clerk of the court, and on my right is Paul Nejelski, the court administrator.

BUDGET REQUEST

I appreciate the opportunity to make this appearance and present for your consideration the court's proposed budget for fiscal year 1988. In preparation for today's testimony we have already submitted to the committee our budget estimates and a written statement giving the highlights of the estimates.

I would like now to give a brief statement highlighting the highlights, as it were. The court's budget request for 1988 is for $28,120,000 and 339 permanent positions. These figures represent an increase of $2,582,000, or 10.1 percent, over fiscal year 1987, and no increase in the number of permanent positions.

Of the $2,582,000 increase, $2,038,000 or 79 percent, is made up of mandatory items over which the court has no control. In this category by far the largest item is the $1,056,000 in increased rent charged by GSA for court facilities nationwide. Of the $544,000 in discretionary increases, almost one-half—$260,000, to be precise—is attributable to an increase in guard service.

COURT CASELOAD

Turning to our workload, there were 83,686 cases pending in our court on September 30, 1986. To put that in perspective, there were—excluding bankruptcy and prisoner petitions—218,768 total civil cases pending in all the 96 U.S. district courts spread throughout the country. There were 13,132 cases pending before all the 13 Federal circuits.

The barebone figures are alarming, but some of the alarm dissipates upon an in-depth analysis of the figures. A large percentage—41 percent, to be precise—of our filings continued to fall into the so-called tax shelter area. The significance of this fact is that one opinion may dispose of up to 2,000 dockets.

To expedite this disposition process I have assigned 50 percent of the identified shelters to a particular judge or a special trial judge. Even this assignment procedure is broken down by, generally speaking, assigning a particular kind of a shelter to a judge who can then become more proficient in that particular activity and thus handle the matter more efficiently and expeditiously.

Candor requires me to say that a major difficulty in assigning the remaining 50 percent lies in identifying and correlating the petitions with a particular shelter. We continue to experience some dropoff in the so-called tax protestor petitions, no doubt due in part to our liberal use of the penalty provisions authorized by Congress.

We believe that we are adopting other management tools that will de-escalate the rate of increase in our filings. Thus, in addition to assigning judges to manage a shelter, we are setting more cases for trial on a court session, thereby appreciably increasing the number of settlements; we are setting cases for trial in the order of filing and denying continuances except for clearly good cause; we are sending a judge to the major cities for two or three court sessions in a row so that if a judge believes he or she must continue a case, the judge can retain control by simply placing the case on his or her next session; and finally, the judges are filing quarterly reports which set forth issues contained in the cases pending before them.

As the foregoing reflects we are, of course, concerned about our caseload, but we have not panicked and we are firmly convinced that even though we may experience some additional increases, we are gaining control of the situation and can look to a topping off of our caseload in the relatively near future.

Finally Senator, you may be interested to know that in fiscal year 1986 the Internal Revenue Service had determined that there was $3.33 billion due in cases decided by the court in that year; we redetermined that $750 million was due, or more than 27 times the budget we seek this morning. Further, you may be interested to know that the total deficiencies in tax determined by the Internal Revenue Service in cases pending before this court exceeds $17 billion. I think even Senator Dirksen would consider that real money.

With the increased appropriation for IRS audit activity, this number will surely increase commensurately. This places a great responsibility

on us, particularly in these critical fiscal times. Sir, we take that responsibility seriously.

Thank you, Mr. Chairman, for hearing me out, and of course, I will be happy to answer any questions.

PREPARED STATEMENT

I ask that the statement be made a part of the record.

Senator DECONCINI. Without objection, your statement will be made a part of the record.

[The statement follows:]

STATEMENT OF SAMUEL B. STERRETT

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you and present for your consideration the appropriation request of the United States Tax Court for fiscal year 1988.

FISCAL YEAR 1988 BUDGET REQUEST

The Tax Court's fiscal year 1988 budget request is for $28,120,000 and 339 permanent positions. This amount represents an increase of $2,582,000 (10.1%) over fiscal year 1987. The Court's fiscal year 1988 budget reflects our best judgment with respect to the Court's needs for handling our pending caseload. Today I will summarize the reasons for the increase in our budget request. Also, let me direct your attention to our budget submission which contains further justifications for specific program items.

NEW REQUIREMENTS

The Court is requesting $260,000 in new requirements. This amount is needed to cover the increased costs for building and courtroom security. In fiscal year 1988, the Tax Court will receive building security under arrangements with the U. S. Marshals Service. The U. S. Marshals Service has projected a total cost for fiscal year 1988 of $415,000. The Court currently pays GSA $155,000 for contract guard service. Unfortunately, we must take into account the fact that some tax protesters are turning increasingly to violence to express their discontent. Increased security measures will guarantee the protection of judges and all court personnel.

PAY ADJUSTMENTS

During fiscal year 1988, $155,000 will be required to finance promotions and within-grade salary increases for employees who will be eligible for advancement to the next step in salary.

An additional amount of $423,000 is required to finance the pay raise effective January 1, 1987. This amount includes the salary and benefit costs associated with the pay raise. This request does not include the additional pay raise that the President submitted to Congress on January 5, 1987, and which will be paid for the period beginning March 1, 1987.

OTHER COST ADJUSTMENTS

The Court will require $1,744,000 to cover other cost adjustments for fiscal year 1988. This amount includes:

(a) $388,000 for annualization to allow the Court to continue staffing levels approved in prior years.

(b) $90,000 for the Court's annual contribution to the Judges' Survivors Annuity Fund as provided in the Tax Reform Act of 1986.

(c) $1,056,000 for increased GSA rent charges for fiscal year 1988.

(d) $182,000 to cover the costs of inflation for various items such as law books, subscriptions, supplies, and equipment. Law books and subscription costs have shown an average increase of about ten percent over last fiscal year.

(e) $28,000 to cover the cost of increased airfares and per diem rates for all business travellers. The GSA contract carrier rates and hotel rates have been increasing to reflect the new travel reimbursement rates. (The recently advertised discount airfares cannot be applied to our travellers because of the limitations on length of stay and prohibitions on changes to the tickets.)

As you can see, of the $2,582,000 increase that the Court is requesting, 41% is for GSA rent increases; an additional 41% is for salaries and benefits necessary to keep the Court operating at current levels; and 8% is for increased costs due to inflation and travel increases. Only 10% is for new requirements for increased security. The Court is not requesting any additional personnel.

FISCAL YEAR 1988 OBJECTIVES

In fiscal year 1988, the Court's objectives are as follows:

1. The Court will continue its automation projects. These projects include the following:

AUTOMATED DOCKET SYSTEM

Implementation of the automated docket system occurred in May 1986. In fiscal year 1987, the Court should complete development of automated statistical reports. The Court expects to automate its Los Angeles office in fiscal year 1988 providing it with the same capability that presently exists in Washington. We anticipate that once the system is fully operational, processing of the enormous volume of paper that now confronts the Court will be dramatically improved. There should be a savings in personnel in certain sections of the Court. More importantly, delays now encountered should be eliminated.

WORD PROCESSING FUNCTIONS

Currently the Court has word processing equipment in most major areas. In fiscal year 1988, the Court will continue to upgrade the functions of these offices to include the drafting and refinement of Court opinions by secretaries, law clerks and judges; provide for the production of statistical reports by the secretaries; interface with a contracted typesetter for production and printing of opinions; and provide access to automated legal research data bases for citation verification checks.

ADMINISTRATIVE FUNCTIONS

The Court has installed personal computers in many administrative areas of the Court including Budget and Accounting, Personnel, and the Facilities Management Section which uses the system for equipment and furniture inventory. These systems are currently using "off-the-shelf" programs to include database management, spreadsheets, communications and word processing programs. The Court proposes to continue the development of software programs for:

(a) Judges' chambers to provide for legal research requirements, office procedures and access to information provided to them by the Court's administrative support staff.

(b) The Court's Library to provide better control over our existing collection and up-to-date access to legal databases.

(c) Continued automation of the Court's administrative areas such as the Court Administrator staff functions.

2. The Court is experiencing continuing cost increases from GSA for rental of courtroom and office space in Washington, D.C. and in our field courtrooms and facilities throughout the country. The Tax Court is a circuit riding court and hears cases in approximately 80 different cities. In cities where the Court has experienced trouble in obtaining courtroom space, it has rented space from GSA in 32 cities during the last year. The amount of rent the Court will pay to GSA in fiscal year 1988 will increase 22% over fiscal year 1987. The Court recognizes that this is a substantial increase, but we have no control over the amount GSA charges for rent. The U. S. Code requires the Court to sit in a place convenient to the taxpayer.

   Currently the Court maintains 32 court facilities throughout the United States. The Court is researching various ways to reduce the amount that it must pay for GSA rent by closing courtrooms, continuing the program to consolidate places for holding Court, sharing space with other Courts throughout the Nation, and eliminating cities that are close to other cities where the Court has assigned space.

3. In fiscal year 1988, the Court is not requesting any new personnel. The Tax Court believes that the automation of the Court's functions has helped to control the number of individuals that the Court must employ to continue service to the taxpayers who file their cases with the Court.

4. The Court will absorb any additional costs associated with the new contributions required by the Federal Employees Retirement System. The Court will also absorb the additional costs associated with the increased ceiling for Social Security and Medicare Tax contributions.

5. The Court wishes to continue its training program started in fiscal year 1986 for the presidentially appointed judges. No additional funds over those requested in fiscal year 1987 are required. The Court has found that training for our judges and other staff has been a success. Programs have been provided at the Court in such areas as opinion writing and the rules of evidence.

6. It is estimated that in fiscal year 1988 the Court's pending caseload will approach 100,000 cases. The Court is studying ways to reduce this inventory.

THE COURT'S WORKLOAD

Any discussion of the Court's workload must emphasize that at the present time the Tax Court handles approximately 90% of all substantive tax litigation, exclusive of collection actions, in the federal courts. As the Committee knows, it is the only Court where a taxpayer can litigate his case without prior payment of a tax deficiency determined by the Internal Revenue Service. Proceedings in the Tax Court are begun by filing a petition after the taxpayer has been sent a deficiency notice by the Commissioner of Internal Revenue. The Tax Court has no control over the deficiency notice procedure. As the number of deficiency notices increases, the Court's docketed cases will increase commensurately.

In fiscal year 1970, 7,390 new cases were filed in the Tax Court. In fiscal year 1975, the number of new cases filed was 11,213. In fiscal year 1986, 48,398 new cases were filed. Thus, over the past sixteen years, the increase in the number of new cases has been more than 500 percent, and in the last eleven years it has more than tripled. For fiscal year 1986, the increase in new cases filed was 7% more than in fiscal year 1985.

The inventory of pending cases rose from 12,040 at the end of fiscal year 1970 to 16,448 at the end of 1975, a 37% increase. At the end of fiscal year 1986, the inventory of pending cases stood at 83,686, a 595% increase since 1970. The pending caseload has been maintained since fiscal year 1977 at approximately 150% of the number of cases filed each year.

I hasten to point out that the pending case inventory consists mostly of recently filed cases. About 80% of the regular cases that go to trial are disposed of within 14 months from the date of trial. About 98% of the small tax cases which are tried are disposed of within 5 months from the date of trial. While the Court takes into account the wishes of the parties, it is increasingly pushing the parties to trial and less frequently granting a joint motion for continuance unless detailed reasons are given. In the meantime the judges are actively trying to get the parties to settle before the trial date.

In fiscal year 1977, the pending caseload was 21,298, 85% regular cases, 15% small tax cases. By the end of fiscal year 1986, the pending caseload had increased 293% to 83,686 -- 41% so-called shelter cases, 45% regular cases and 14% small tax cases. Between 1977 and 1986, small tax cases increased 280%. A large portion of this increase can be attributed to increases in the jurisdictional maximum for small tax cases -- to $5,000 in 1978 and to $10,000 in 1984. Pending regular cases increased 295%. During this same period the overall pending caseload increased 293%. There are 62,388 more cases pending today than nine years ago, but it is important to note that shelter cases, approximately 30,000 cases, accounted for almost 58% of this increase.

TAX REFORM ACT OF 1986

The effects of the Tax Reform Act of 1986 on the Court are not fully known at this time, however, some changes are anticipated.

(a) The Act requires that the Court report to Congress on its inventory and the efforts being made to reduce the caseload.

(b) The necessity to distinguish between passive and active gains and losses will undoubtedly lead to litigation in the Court.

(c) The Act will, we believe, have a dramatic effect in reducing the creation of new shelters, but its impact on existing shelters now pending in the Court will be minimal.

THE COURT'S PRODUCTIVITY

In a continuing effort to decrease the backlog of pending cases, the Court as a whole has increased its productivity. The number of cases closed by the Court increased from 6,610 in fiscal year 1970 to 8,616 in fiscal year 1975, and to 37,937 in fiscal year 1986. To a substantial degree, the increase in the number of cases closed reflects what appears to be a more flexible settlement policy of the Internal Revenue Service.

Of the 796 opinions written in fiscal year 1975, 525 or 66% were written in regular cases and 271 or 34% in small tax cases. Of the 1,750 opinions written in

fiscal year 1986, 1,045 or 60% were written in regular cases and 705 or 40% in the small tax cases.

SHELTER CASES

Shelter cases account for approximately 41% of the Court's total pending caseload. Approximately 50% of the identified shelters have been assigned to a judge or special trial judge for case management purposes.

SMALL TAX CASE PROCEDURES

Under the small tax case procedures, which apply only if elected by the taxpayer, trials are conducted in an informal and prompt manner. The rules of evidence are relaxed; neither party is required to file a brief; and neither party may appeal. The jurisdictional limit for the small tax case was increased by Congress in 1984 to $10,000, for each taxable year.

The Court currently is authorized seventeen special trial judges who are generally assigned to handle the small tax case work. They are also assigned certain types of regular cases, but in such cases their findings and opinions are reviewed and adopted or modified by a presidentially appointed judge of the Court.

The number of cases in which the small tax case election has been made has increased steadily since the provisions became law. In fiscal year 1971, 1,349 small tax cases were filed; in fiscal year 1975, 3,290 small tax cases were filed; and in fiscal year 1986, 13,172 small tax cases were filed.

The small tax case procedures, as conceived by Congress, contemplated that the cases would be heard and disposed of promptly. Expeditious handling of these small tax cases helps maintain confidence in the efficiency and fairness of the revenue and judicial systems. Delays not only tend to undermine such confidence in the efficiency and fairness of the revenue and judicial systems but defer the availability to the Treasury of the revenue ultimately found to be owed. This is also true with respect to regular cases.

REGIONALIZATION

In January, 1985, the Tax Court initiated an experimental program under which the Court has opened an office and stationed personnel in Los Angeles. In recent years, approximately 30% of the Court's pending cases have involved petitioners residing in the state of California, the greatest proportion of whom have been located in the Los Angeles area. Prior to opening the Los Angeles office, the Court was required to schedule many trial sessions in California. Faced with the unusually high concentration of dockets in the area, the Court requested, and received, congressional approval to open an office in Los Angeles.

The Tax Court has acquired field courtroom facilities in Los Angeles (Westwood and Pasadena), California. At this time, one special trial judge and a full-time staff are permanently assigned there. The Los Angeles office has proven thus far to be successful in handling the high volume and varied types of cases in the California area.

EXPEDITED PROCEDURES

In July 1985, the Tax Court introduced new procedures which allow cases of special significance to be scheduled on an expedited calendar. Under the new procedures, at any time after a matter is at issue, the parties are permitted to file a Joint Motion for Expedited Consideration which must set forth specific and compelling reasons for invoking the special measures.

When the Joint Motion for Expedited Consideration is filed, the Chief Judge decides whether to grant the request. If the Chief Judge does grant it, the case is

assigned to a judge who, at the time, is able to treat the matter on an accelerated basis. The assigned judge will contact counsel for the parties and set the trial for the earliest possible date. The judge's goal is to render a decision approximately six months after final briefs are filed. Under ideal circumstances, in which a trial is promptly held and briefing is timely completed, a decision will be handed down within a year after the case is at issue.

The first matter to be handled under the new procedures involved a case between American Telephone and Telegraph (AT&T) and the IRS. In August 1985 the parties filed a join motion for expedited consideration of a dispute over the taxation of a 39-cent per share dividend resulting from the 1984 divestiture of AT&T. The motion for expedited consideration was granted. In October 1985, a senior judge of the Tax Court was assigned to the matter which involves over three million AT&T stockholders. The Court issued its decision in April 1986.

SUMMARY

The Tax Court caseload is substantial and will continue to be so because of its unique jurisdiction. The Tax Court's goal is to resolve cases expeditiously while giving careful consideration to the merits of each matter. The Court is also committed to providing taxpayers with a convenient forum for trial and simplifying the presentation of disputes involving relatively small amounts of tax dollars. The Court's small-tax-case procedures, the opening of a California office, and the increasing use of bench opinions were implemented to achieve these goals. Similarly, the Court's newly-introduced, expedited procedures seek to provide a prompt resolution of significant issues in the field of federal taxation.

Certain of these measures, such as the small-tax-case procedures and the use of bench opinions, have proven to be effective tools for expediting the resolution of disputes before the Court. Other measures are recent innovations whose success cannot be fully evaluated at this date. In future years, the ever-burgeoning caseload will doubtlessly require the development of additional strategies and procedures to improve the Court's effectiveness. Yet the goals, as always, will remain constant as the Court endeavors to stay as a safety valve in the self-assessment system and to assure a uniform interpretation of the Internal Revenue Code and to provide a national forum for the resolution of disputes between the taxpayers and the Internal Revenue Service.

CONCLUSION

During fiscal year 1986, the amount of deficiencies ultimately determined by the Court to be owed by taxpayers was $758,863,980, or about 27 times the amount of our fiscal year 1988 budget request. The 83,686 cases pending in the Tax Court at the end of fiscal year 1986 involved deficiencies determined by the Internal Revenue Service in the total amount of $16,329,147,410. To the extent of taxes owed, the revenue ultimately involved in these cases cannot be collected until they have been heard and decided or otherwise disposed of. Delays in closing these cases deprive the Treasury of revenues which are due. To the extent that the determined tax liabilities are not in fact owed, they create financial uncertainties for corporations and individuals in making business, investment, and other decisions.

Since fiscal year 1977, the Court's budget has increased only 224% including amounts received because of inflation; and the personnel levels have increased only 64%. The estimated number of cases filed from 1977 to 1988 has increased over 330% and the number of cases closed increased over 343% during the same time period. Thus, the productivity of the existing personnel has increased significantly over the past few years.

The Tax Court generates funds for the United States Treasury. We must continue our determined effort to narrow the gap between the cases closed and the cases filed. The Court must have adequate funds and resources to cope with the pending caseload and meet future challenges. The Commissioner has notified the Court that the Internal Revenue Service has thousands of proposed deficiencies in the audit process concerning tax shelters and tax protesters.

Unlike many other Government agencies with multiple programs, the Tax Court has only one program--the judicial resolution of Federal tax cases. Whenever appropriations are decreased, the primary area the Court has flexibility to reduce is the amount of travel needed to hear cases. Only 3% of our cases are heard in Washington, D.C.; 97% are heard throughout the country. If the Tax Court does not travel and hold trial sessions, the caseload will continue to increase and the funds due Treasury will not become available. The Court's statute requires that sessions be held *with as little inconvenience and expense to taxpayers as is practicable.* 26 U.S. Code 7446.

The Court would be derelict in its duty to Congress, especially as an Article I Court, if we did not call attention to the fact that the proposed increased appropriation for the Internal Revenue Service will inevitably have the effect of increasing the number of potential filers in the Tax Court seeking a redetermination of the deficiencies determined by the IRS.

Mr. Chairman, that concludes my statement. I will be pleased to answer any questions the Committee may have.

Senator DECONCINI. Judge Sterrett, thank you. You do a remarkably fine job as chief judge in your Tax Court. It is not an easy effort collecting taxes and interpreting the tax laws that we garble up here through the legislative process, but I admire your fine record.

As you know, one of the pending Grace Commission recommendations that the Senate Grace Caucus is considering calls for the establishment of a decentralized appellate tax board, consisting of about 75 administrative law judges in cities around the country to resolve the smaller tax cases. It is hoped that this would free up valuable Tax Court time and staff and accelerate both assessments and payments of taxes to the Treasury. It is estimated by the Grace Commission that this plan could save as much as $1 billion.

Would you support the formation of the appellate tax board to take some of the burden off of the Tax Court, and if not, why not?

Chief Judge STERRETT. Senator, we are, of course, aware of that proposal and we understand the reasons behind it and we compliment the reasons behind it and the effort to help us out. However, we studied that question and it was our feeling that the cases heard by those 75 administrative law judges would be of a smaller nature, that the total number of dollars involved in their deficiencies would be quite small.

We have a figure on that which I can get for you, but it would be quite small and when compared to the cost of setting up their offices—secretaries, law clerks, et cetera—it would not be cost effective, particularly when compared to the work of our special trial judges.

We are talking about the small tax case procedure in general. We have a record of being able to get a small tax case petition to court within 6 months of the time the petition is filed. The taxpayer will get an answer within—if it is not a terribly complicated case, and it normally is not—within another 6 or 7 months.

Senator DECONCINI. What do you consider a small case?

Chief Judge STERRETT. Under $10,000.

Senator DECONCINI. Under $10,000?

Chief Judge STERRETT. Under $10,000, yes, sir. So normally the small taxpayer will have his answer within 1 year. We think that is pretty good, and we do not think that putting 75 administrative law judges out in the field would do better. If I were just speaking as a tax lawyer and did a lot of corporate work, I would say that is marvelous, because that frees us up for more work that I might personally find interesting.

Senator DECONCINI. So your point is that if it is cost effective there may be some merit to it. You are not satisfied that it would be cost effective at $10,000 or lower?

Chief Judge STERRETT. That is correct, sir.

Senator DECONCINI. I think that is worth looking at. You know, it does concern me, judge—do not take this as any criticism—but for a small taxpayer of $3,000 or $4,000 to have to wait 1 year, that is a long time for a small, little businessman, I think.

Chief Judge STERRETT. Well, even 1 year could be a long time. I cannot deny that, sir.

Senator DECONCINI. Just having been in small business, and when you are waiting for a decision that affects $3,000 or $4,000, that is operating capital and you would like to have an answer far sooner. Obviously, if it is a complicated case then that is different.

Chief Judge STERRETT. Well, we bear that very much in mind, Senator, when we go to these cities.

TRANSPORTATION OF PERSONS

Senator DECONCINI. I wanted to ask you a little about your fiscal year 1986 travel of persons. I see it has increased by over 112 percent over 1986 from $673,000 to $1,432,000 for next year. Permanent staff has only increased nine people in that period. Why has your travel cost increased so dramatically.

Chief Judge STERRETT. Can I have a second?

Senator DECONCINI. Sure, you can have a second, or you can let someone else answer if you want.

Chief Judge STERRETT. Mr. Casazza, can you answer that?

Senator DECONCINI. Mr. Casazza, would you like to answer that? You would not like to but you will, maybe?

Mr. CASAZZA. Naturally, our travel is tied to the number of trial sessions, as we term them, that we conduct throughout the country. Although the personnel does not increase in terms of either the judicial or clerical personnel, we are trying to schedule more and more trials, and I use the word trial to include pretrial conferences.

As you may know, Senator, a large extent of our inventory today consists of tax shelter cases. And in many of those instances you have numerous taxpayers who invested in the same tax shelter which causes the court to be confronted with large numbers of cases involving the same issue, so to speak, the same shelter.

Judges will try to get the parties together at a pretrial conference to select test cases that will be the start of the entire issue. I mention this in the sense that the judicial personnel are traveling more to accomplish the goal. Just the trial sessions themselves are not really reflective of the travel, as I said, for reasons of these pretrial conferences and hearings.

Senator DECONCINI. Most of that travel is related to pretrial conferences is what you are telling me?

Mr. CASAZZA. Pretrial and trial.

Senator DECONCINI. And trial.

Mr. CASAZZA. Or put it this way, case-related travel.

Senator DECONCINI. Well, yes. It is all related to cases. I am sure you are not going on vacations or anything else or speaking that much, but how is it broken down? Is it more for pretrial? Is that something new you are doing more of? Maybe you want to answer that, judge?

Chief Judge STERRETT. Well, we are doing more. I could not break it down percentagewise, sir. But I was also handed a note that the effects of Gramm-Rudman held down our travel in fiscal 1986.

Senator DECONCINI. Well, you took a little hit there of what? Five percent?

Chief Judge STERRETT. We started from a lower figure.

Senator DECONCINI. Well, 1986 you were down to 673. In 1987 you have made that up real quick, 1,389, and now you are up 1,432. You managed to recoup Gramm-Rudman real quick in 1987.

Chief Judge STERRETT. Well, of course, the cost of the per diem has gone up.

Senator DECONCINI. Yes; per diem has gone up but the air travel has gone down.

Chief Judge STERRETT. Well, it did go down yesterday.

Senator DECONCINI. Somebody is shaking their head. Air travel has not gone down?

Mr. SMOKE. Business fares have increased. The fact is, we have a letter from GSA not to use these maxi fares.

Senator DECONCINI. Is that right?

Mr. SMOKE. Yes; because they are not redeemable if we do not use them.

Senator DECONCINI. Do you accumulate miles on the frequent flyer programs?

Mr. SMOKE. No, sir.

Senator DECONCINI. You do not do that?

Chief Judge STERRETT. We are not allowed to.

Senator DECONCINI. You say—GSA says you cannot do that?

Mr. SMOKE. There is no way for us to track it. We would have to hire more persons in order to track those.

Senator DECONCINI. So, you are telling me that the business fares have gone up?

Mr. SMOKE. Yes, sir.

Senator DECONCINI. We look at them all the time and they are going down for my office, my travel. But that is because we do take advantage of all those, you know, buying them ahead of time and what have you.

Chief Judge STERRETT. Yes; and of course, we all do when we travel home. But it may return more to the substance of it, sir. By reason of the shelter where you have taxpayers, partners scattered throughout the country, to manage it I have to put a judge in charge of it. He is going to have to do more travel to get this one case resolved than he normally would in the old days, so he may go out two or three times on it and only be in a city 1 or 2 days.

But if we are to do what the statute tells us to do—that is, hear the case where it is convenient for the taxpayer—we must travel. The statute says it should be as convenient as possible to the taxpayers' home. And I am constantly under pressure from some of my colleagues to reduce the number of cities we go to. GAO, as a matter of fact, said reduce the number of cities. And I am constantly trying not to reduce the number of cities.

Because I think, and particularly in line with what you are talking about a small taxpayer, a man who is paid by the hour and has to take a day off, who is losing pay, for him to have to travel 300 or 400 miles is a real sacrifice when his case probably does not involve that much.

Senator DECONCINI. Do judges travel first class?

Chief Judge STERRETT. Very rarely. We travel first class under the rules and regulations issued by the administrative office of the U.S. courts, which means no first-class travel on any short flights, only on long flights, and even then only when it could be justified.

Senator DECONCINI. Well, I do not have any trouble with it, to tell you the truth. I just wondered. You know, it really concerns me that you cannot take advantage of deregulation—which lowered air fares. That is not your particular problem if you are told that you are not to take advantage of it, but that is supposed to be one of the benefits to the public and the consumers and you are it.

Chief Judge STERRETT. Certainly.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. At least to the agency. OK, I will submit a few other questions, judge, along with the questions of Senator Domenici. Thank you.

Chief Judge STERRETT. We would be happy to answer. Thank you.

[The following questions were not asked at the hearing but were submitted to the court for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

ORIGINAL REQUEST TO OMB

Senator DECONCINI. The Tax Court is requesting a budget of $28,120,000 in fiscal year 1988—an increase of about $2.6 million or 10 percent over 1987 levels. What was your original request to the Office of Management and Budget last fall and where did OMB cut you back?

Chief Judge STERRETT. The Tax Court's original request to OMB was $28,120,000. The OMB does not review our budget because the Tax Court is a legislative branch agency.

FERS ABSORPTION

Senator DECONCINI. On page 10 of your budget justifications you say that the Tax Court will abosrb any additional costs associated with the new contributions required by the Federal Employees' Retirement System [FERS], and the additional costs associated with the increased ceiling for Social Security and Medicare tax contributions. How much will you have to absorb to cover each of these mandatory costs, and what will be the effect on your Tax Court operations as a result of your absorption of these costs? I thought OMB was providing full FERS costs in 1988. What happened to the Tax Court.

Chief Judge STERRETT. In submitting this request for fiscal year 1988, I requested that all increases be kept to a minimum and that if costs could be absorbed by the court without jeopardizing its mission, those costs should be absorbed. We have studied our fiscal year 1987 appropriation and have found that the court could absorb the $300,000 cost associated with the 3-percent pay raise effective January 1, 1987, and the expected FERS increase of $75,000 from pesonnel costs associated with the vacancies that the court has at this time.

In fiscal year 1988, the court's estimated costs for the increased Social Security and Medicare tax increase is $10,000. The court feels that this amount can easily be absorbed without any effect on our operations. Regarding the FERS increase, when the budget was prepared, the court estimated that FERS would cost $200,000 in fiscal year 1988, and this amount could be absorbed within the personnel costs because of vacancies and turnover in positions. We have recalculated this cost and the revised amount is now $400,000 in fiscal year 1988. The court feels that with proper control of all positions, leaving some positions vacant for a longer period, and restricting the amount of overlap in our law clerk positions, the total amount could stil be absorbed.

Case Backlog

Senator DeConcini. On page 10 of your budget books you say that the court has a backlog of cases that has approached 100,000. Yet you say that the court is studying ways to rescue this backlog. Tell us three specific things you will do in fiscal year 1988 to reduce this backlog, and with no increase in staff how realistic is it to expect any real drop in this huge backlog next year?

Chief Judge Sterrett. I hasten to point out that the pending case inventory consists mostly of recently filed cases. About 80 percent of the regualr cases that go to trial are disposed of within 14 months from the date of trial. A large percentage, 41 percent, of our filings continue to fall into the so-called tax shelter area where one opinion may dispose of up to 2,000 dockets. The court has taken further steps to expedite the disposition process:

One, the court has assigned 50 percent of the identified shelters to a particular judge or special trial judge. Particular kinds of shelters are assigned to an individual judge who can become an expert in that particular activity and thus handle the matter more efficiently and expeditiously.

Two, the court is setting more cases for trial on a court session, thereby appreciably increasing the disposition of cases, often through settlement. We are setting cases for trial in the order of filing and denying continuances except for clearly good cause. We are sending a judge to the major cities for two or three court sessions in a row so that if the judge believes he or she must continue a case, the judge can retain control by simply placing the case on his or her next session.

Three, the court now requires that judges must file quarterly reports which track the status of each case within his or her jurisdiction.

I would like to add that a recent opinion in a shelter case disposed of over 2,000 dockets. The court feels that we are gaining control of the situation and can look to a topping off of our caseload in the relatively near future.

Questions Submitted by Senator Pete V. Domenici

Biennial Budget Cycle

Senator Domenici. Calls for budget reform are increasingly heard as budget deadlines are too often missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the 2-year budget cycle where budget and appropriations matters would be considered in the first year, and authorizations and oversight would be undertaken in the second year.

Would your department/agency favor a biennial budget process?

Chief Judge Sterrett. Yes; the Tax Court would prefer to submit a biennial budget to Congress.

Senator Domenici. What benefits would your agency achieve in a 2-year appropriation cycle?

Chief Judge Sterrett. The benefits to the Tax Court for a 2-year appropriation cycle would be a small dollar savings in preparing and printing of the documents required for the budget process, savings in the time set aside in preparing appropriation

hearing documents such as the written statement, and a savings in time of the chief judge in preparing and reviewing for the appropriation hearings. Furthermore, the 2-year appropriation cycle would allow for better management of purchasing, especially in the area of contracts for computers, ADP equipment, and programming support.

Senator DOMENICI. Approximately what proportion of your annual appropriation rquest would you consider simply repetitious of the previous year's submission?

Chief Judge STERRETT. A large portion of our budget request each year is repetitious. The documents sent to OMB and the budget justification that the court submits to Congres are similar from year to year with respect to the major items such as personnel, travel, and GSA rent. The court's mission has not changed substantially in the past, so each year the chief judge comes to Congress to testify on the same mission which is to adjudicate tax disputes between the taxpayer and the IRS.

Senator DOMENICI. What difficulties can you foresee in preparing and submitting a 2-year budget to the Congress?

Chief Judge STERRETT. The only difficulty I can foresee at this time is if costs should substantially rise in a 1-year period or unforeseen costs should arise. If that occurs, the court would be forced to request a supplemental appropriation in the second year.

Senator DOMENICI. If you oppose the biennial budget concept, please give this subcommittee your reasons why.

Chief Judge STERRETT. I do not oppose the biennial budget concept.

TRAVEL COSTS

Senator DOMENICI. Since fiscal year 1986, travel and transportation of persons has increased by over 112 percent (from $673,000 in 1986 to $1,432,000 next year). Transportation of things has jumped 84 percent during that timeframe. Permanent staff has only increased by nine people in that period. Why have your travel costs increased so dramatically?

Chief Judge STERRETT. I would like to clarify the travel situation at this time. The court's original request to Congress for fiscal year 1986 travel costs was $1,379,000. This figure was based on 798 trial weeks. Whenever a session is set, the judge is expected to be out hearing cases for the full period, typically a 1- or 2-week session. Because a case can be settled by the respondent and the petitioner before the case comes to trial, however, this may reduce the time required for trials. The judge may be scheduled to be on a session for 1 week but because cases are settled, the session may be shortened to as little as 2 days. The court has no control over when a case may be settled between the parties, but it must budget for the full session even though the session may be substantially shortened because of the settlements.

Because of the Gramm-Rudman-Hollings reduction, the court reduced its travel estimates to $1,320,000. The actual amount spent on travel in fiscal year 1986 was $672,700. The remainder of $647,300 was returned to the Treasury Department at the end of the fiscal year. In fiscal year 1987, our request was for $1,389,000, a $69,000 or 5 percent increase over the fiscal year 1986 request after the Gramm-Rudman-Hollings reduction. We do not yet know how much of that amount will actually be used but, as noted, we must budget for 798 weeks of scheduled trials. Our fiscal year 1988 request is for $1,432,000, only a $43,000 (3 percent) increase over fiscal year 1987. Again, this amount is based on 798 total scheduled trial weeks.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

STATEMENT OF MARSHALL J. BREGER, CHAIRMAN

ACCOMPANIED BY:

STEPHEN L. BABCOCK, EXECUTIVE DIRECTOR
JEFFREY S. LUBBERS, RESEARCH DIRECTOR
DANIEL F. MANN, DIRECTOR OF ADMINISTRATION

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. Our next witness is Marshall J. Breger, Chairman of the Administrative Conference of the United States.

Very good, Mr. Breger. Please introduce your colleagues here.

Mr. BREGER. Thank you very much, Senator. As you know, I am Chairman of the Administrative Conference of the United States. I am accompanied by Jeff Lubbers, the Conference's Research Director, Steve Babcock, Executive Director, and Daniel Mann, Director of Administration.

Senator DECONCINI. Welcome.

Mr. BREGER. I just want to make a few introductory remarks, and then I will be happy to answer any questions you may have. As you know, the Administrative Conference is the Government's in-house think tank for the improvement of administrative practice and procedure. It has been central to the development of the Freedom of Information Act, the Federal Advisory Committee Act, the Sunshine Act, the Privacy Act, the Equal Access to Justice Act, and to the interpretation and improvement of the adjudicatory and rulemaking provisions of the Administrative Procedure Act.

We are constantly looking for areas where there can be improvement in administrative law. Just some quick examples. Civil money penalties. Congress decides it wants to, in a certain area, have a fine. Immigration employer sanctions is one example. That is a policy decision appropriate for Congress to make, but there are innumerable technical implementation questions of what kind of hearing you have before the fine is ordered. Who orders it? What kind of judge, administrative judge, administrative law judge? What kind of appeal rights, what kind of procedure? It is that area, that narrow technical area, where the Conference is working with suggestions and improvements.

We have in the past done considerable work in the area of negotiated rulemaking and alternate dispute resolution in agency litigation. It is an area we are working very closely on now. This year we have spent time on studies on the protection of whistle blowers. We have begun studies of administrative law problems in the financial services area. A large study on technical problems in user fees—if you are going to have user

fees, how they should be structured, how they might be structured, what problems exist?

We have done a large study of OSHA rulemaking at the request of the Administrator of OSHA. We continue our yearly monitoring and report on the Equal Access to Justice Act in Congress. We hope in the future to develop and strengthen our activities in tort reform, and to begin a project on the Ethics in Government Act.

PREPARED STATEMENT

I believe you have our written submission and I would be grateful if you could, for all of our sakes, put it in the record as read. Let me stop here and answer any questions you may have.

Senator DECONCINI. Thank you, Mr. Breger. It will be put in the record without objection.

[The statement follows:]

STATEMENT OF MARSHALL J. BREGER

My name is Marshall J. Breger and I serve as Chairman of the Administrative Conference of the United States. Accompanying me today are Mr. Stephen Babcock, Executive Director; Mr. Jeffrey Lubbers, Research Director; and Mr. Daniel Mann, Director of Administration. I am pleased to have this opportunity to present our budget to you. I appreciate your function as stewards of the government's money with respect to the Administrative Conference and I look forward to a continued partnership of fiscal responsibility.

As you know, the Administrative Conference's Fiscal Year 1988 budget request is for $1,681,000. While this figure represents an increase of $212,000 over our Fiscal Year 1987 appropriation, $25,000 is earmarked for a rental increase. Another $34,000 represents a requested pay raise supplemental appropriation for Fiscal Year 1987, and $14,000 is earmarked for retirement contributions (under P.L. 99-335). Thus, the President's request actually represents only $139,000 more than our Fiscal Year 1987 final budget figure. We do not, however, belittle the amount of this increase as we consider it necessary to support the Conference's ability to fulfill its statutory mission.

Last fall, the President signed into law P.L. 99-470 extending the authorization for the Administrative Conference through fiscal 1990. Our authorization ceiling was reduced from $2,300,000 a year to a more realistic $2,000,000. As our appropriations have always been well below the ceiling, we are satisfied that this diminution would not realistically affect our operations.

INTRODUCTION

As you know, the core activity of the Administrative Conference is the research and development of formal recommendations to improve administrative procedures throughout the federal government. Our mission is to recommend to the President, to the Congress and to federal agencies ways to improve the fairness and efficiency of the administrative procedures that the agencies use. This includes the procedures and processes used by the agencies to conduct rulemakings, to take action on an informal basis, and to hold agency hearings. The Conference also advises the Judicial Conference of the United States on matters of administrative law relating to judicial review of agency decisions.

The Conference is headed by a Chairman who is an advice-and-consent appointee with a term of five years. The Chairman directs the Office of the Chairman -- the permanent

staff, which has 21 full-time equivalent employees. The Conference also has a 10-member Presidentially-appointed Council, consisting of five government officials and five members from outside the government. The Council's function is similar to that of a corporate board of directors.

The Conference's advice is given principally through formal recommendations that are debated and adopted by vote of the Conference's members. We were delighted that our 1986 authorizing legislation increased the Conference's membership from 91 members to 101 members. [Pub. L. No. 99-470 (October 14, 1986) 5 U.S.C. §573.] The Conference requested the increase in order to offer agency memberships to a number of new agencies whose interest in administrative law activities warranted.

These voting members of the Administrative Conference, apart from myself, are volunteers: currently 49 from the various departments and agencies, and 41 from outside the government. These 90 people are the government's top legal officers, the leading academics in the field of administrative law, and others from private life who are knowledgeable concerning governmental processes.

The forty-nine government members of the Conference are designated by the heads of the departments and major agencies. They are typically general counsels, commissioners, assistant secretaries, or the like. The public members, those outside the government, are appointed by the Chairman with the consent of the Council. They serve for terms of two years. Due to the prestige of Conference membership, the government receives, without cost except for travel expenses, the services of corporate general counsels, leading law professors, private practitioners, and others with a wide variety of backgrounds, accomplishments and perspectives.

The Administrative Conference develops its recommendations by a process of continued discussion and debate which leads to an exhaustively researched and closely reasoned work-product. The Chairman initially decides to pursue a particular topic on the basis of suggestions from Conference members, Members of Congress, agencies or others. When a topic has been defined, the Chairman's staff begins the process of finding a consultant -- typically a law professor who already has some knowledge about the particular subject. The consultant will review available literature and case law, interview agency officials, and write a comprehensive report on the problem. The Conference's Research Director and one or more of the staff attorneys work closely with the consultant throughout this process.

When the consultant's report has been completed it is given to the members of one of

our six standing committees or a special committee. (All Conference members serve on one of these committees.) The committee develops a proposed recommendation which is then reviewed by the Council. If the Council endorses the proposal, it is then placed on the agenda of the next semi-annual general meeting -- or Plenary Session.

At the Plenary Session, the proposed recommendation is once again debated thoroughly. Often recommendations are amended. Occasionally, they are referred back to committee or voted into oblivion. If a recommendation is adopted it is published in the Federal Register. The final recommendation is added to the Code of Federal Regulations at 1 CFR Part 305.

Once recommendations are published, the Conference takes special effort to have agencies, (or where appropriate, Congress or the President) implement them. The Office maintains a separate file on each recommendation in which information about agency compliance with that recommendation is kept. Our governing statute does not grant us power to compel compliance with our recommendations, but rather reflects a conscious decision by the Congress that the Conference wield the carrot of persuasion rather than a compliance stick. Therefore, our implementation activities are of necessity persuasive only. Nonetheless, the quality of Conference reports and the imprimatur of Conference recommendations is such that agencies often strive to voluntarily place themselves in accord with Conference mandates.

The Office of the Chairman also engages in extensive advisory and consultative activities. These are undertaken when we receive requests from agencies, from OMB, and from Congressional staff or Congressional committees for views on procedural problems or on aspects of pending legislation. In such situations, the Chairman or Conference staff will assist through testimony, written comment or informal advice based upon the many Conference recommendations or staff expertise.

A further major category of Administrative Conference activities comes under the heading of clearinghouse activities. The Office of the Chairman is mandated by the Administrative Conference Act to "arrange for interchange among administrative agencies of information potentially useful in improving administrative procedure." [5 U.S.C. §574(2).] We widely disseminate our research reports and open to the public and to other agencies our library which is one of the major repositories for administrative law materials in the Capital. Our activities under this heading also include the sponsorship of formal and informal meetings for agency personnel, chairing informal groups such as the Council of Independent Regulatory Agencies, and producing compilations and documents which are useful to

agencies generally. As an example, on February 24 we sponsored a colloquy on the "Role of Legislative History in Judicial Interpretation" as viewed by Judge Abner Mikva and Judge Kenneth Starr of the Court of Appeals for the District of Columbia Circuit. The staff of the Congressional Legislative Counsel's Office joined ACUS members, law professors and other invited guests for this spirited interchange.

1986 RECOMMENDATIONS

During the past twelve-month period, the Administrative Conference has adopted the following eight formal recommendations. The Conference adopted three of these recommendations at its Plenary Session in June of 1986, and five additional at its December meeting. (A brief description of these recommendations is attached at Appendix A.)

Recommendation 86-1: Nonlawyer Assistance and Representation

Recommendation 86-2: Use of Federal Rules of Evidence in Federal Agency Adjudications

Recommendation 86-3: Agencies' Use of Alternative Means of Dispute Resolution

Recommendation 86-4: The Split-Enforcement Model for Agency Adjudication

Recommendation 86-5: Medicare Appeals

Recommendation 86-6: Petitions for Rulemaking

Recommendation 86-7: Case Management as a Tool for Improving Agency Adjudication

Recommendation 86-8: Acquiring the Services of "Neutrals" for Alternative Means of Dispute Resolution

While the Office of the Chairman of the Administrative Conference spends a majority of its time in connection with the production of recommendations, the Conference, as noted at the outset of this testimony, also engages in a number of other activities, categorized under the headings of implementation, advisory and consultative, and clearinghouse projects.

IMPLEMENTATION

Under the category of implementation activities, we continued during the past twelve months, as in the past, to maintain information on the status of all past Administrative Conference recommendations, and to call attention to recommendations when circumstances warrant. Three areas, however, received special attention.

Legislative action on the race to the courthouse has been a high priority implementation item for the Conference since the December, 1980 adoption of Recommendation 80-5, Eliminating or Simplifying the "Race to the Courthouse" in Appeals from Agency Action.

The goal of this recommendation is to simplify the selection of the proper court to review an agency order where petitions for review of the order are filed in more than one court of appeals.

The Administrative Conference recommendation would remove the incentive to race by replacing the first-to-file rule with a system of random selection in any case where petitions for review of the same order are received by two or more circuits within ten days after the issuance of the order. In all other cases the first-to-file rule would continue to apply. The Judicial Panel on Multidistrict Litigation would administer the random selection system and designate the circuit to hear the case from among those circuits in which petitions had been filed.

The Conference has suggested legislation in this area for a number of years and we are hopeful that race to the courthouse legislation will receive careful consideration during the 100th Congress.

■ Significant progress has been made in implementing Recommendation 82-4, Procedures for Negotiating Proposed Regulations. Negotiated rulemaking has already proved extremely successful for particular types of controversies. The 1982 recommendation was fine-tuned and further developed in Recommendation 85-5. Administrative Conference staff attorneys have worked with the Environmental Protection Agency, Occupational Safety and Health Administration, Department of the Interior, Department of Transportation, Federal Trade Commission and other agencies that have used or displayed interest in the procedure. The Conference has also created an informal interagency group interested in further experimentation with this concept, and has advised those in Congress interested in the area.

■ Major legislation designed to combat waste and fraud in federal agency programs was enacted at the close of the 99th Congress with civil penalty procedures recommended by the Administrative Conference. The Program Fraud Civil Remedies Act was contained in the Omnibus Budget Reconciliation Act of 1986, Public Law 99-509 (October 21, 1986), to be codified at 31 U.S.C. §3801-3812. The law establishes procedures by which federal departments and designated agencies may impose civil penalties on any person or organization that knowingly makes false claims or statements to the agency or to intermediaries that disburse federal funds. The law applies to all cases of fraud not exceeding $150,000.

The Office of the Chairman had participated in the development of this legislation since

1982 and had worked closely with congressional staff members to improve the procedural aspects of the legislation. On February 6, 1986, I testified at a hearing of the House Subcommittee on Administrative Law and Government Relations concerning this legislation. The bill's principal Senate sponsor, Senator William Cohen, specifically referred to Administrative Conference recommendations in support of agency imposition of civil money penalties in his statement supporting the legislation. (See *Congressional Record*, September 19, 1986 (daily ed.), at S. 13005-06.)

CLEARINGHOUSE AND SPECIAL PROJECTS:

Finally, under the heading of clearinghouse and special projects, the Administrative Conference also continued its mix of new and continuing activities during 1986.

■ The Conference is undertaking a broad-gauged study of federal user fee programs. User fees (i.e., direct charges to persons for benefits they receive from the government) have increased in number and size in recent years as a result of Administration proposals and Congress' efforts to meet budget reduction goals. The Conference's project is being carried out with the cooperation of the Office of Management and Budget and the financial support of eight federal agencies -- the Customs Service, the Environmental Protection Agency, the Federal Communications Commission, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Small Business Administration, and the Departments of Transportation and the Interior.

By March, the Conference expects to have a final report available on this issue. The Conference's study will include an evaluation of the Independent Offices Appropriation Act's user charge provision, 31 U.S.C. §9701(b), and programs established under that provision. It will also examine any similar authority or program under which fees are collected from persons who benefit specially from the provision of government goods or services. The study will not make recommendations about particular fee levels or programs, but rather will focus on the general principles that should apply in establishing such programs and in designing procedures to implement them. The Conference has also been chairing an informal inter-agency working group on the study of user fees.

■ The Conference was an organizational member of the National Symposium on Civil Justice Issues, "In Search of Proper Balance," which took place April 30 - May 1, 1986 at Fordham University Law School. The program examined the strengths and weaknesses of our civil justice system.

■ A resolution adopted by the American Bar Association's House of Delegates at its 1986 annual meeting endorsed the recommendations of an earlier ACUS co-sponsored symposium urging improvements in Social Security disability benefit procedures, including further clarification of disability standards; improvements in the quality of initial determinations, the provision of procedural information to claimants, and the quality of medical evidence at the state level; protection of the administrative law judge's role as fact finder in federal level Social Security hearings; and limitation of the scope of review of ALJs' findings by the Social Security Appeals Council.

■ On February 20, the Office of the Chairman transmitted to the Occupational Safety and Health Administration (OSHA) a comprehensive study of OSHA Rulemaking Procedures. The study, requested by Assistant Secretary of Labor John A. Pendergrass, contains a detailed analysis of constraints and difficulties encountered by OSHA since its creation in 1970 in its efforts to promulgate health and safety standards covering the nation's workplace. The report urges that OSHA embark on a series of specified organizational and procedural modifications of its rulemaking process designed to help set agency priorities of regulations and to ensure that high priority rules are issued more expeditiously. Specifically, it recommends the establishment of:

> A systematic process for setting and revising agency standard-setting priorities that can accomodate internal suggestions, public petitions and referrals from other agencies.
>
> An "action tracking system" to document the progress of rulemaking initiatives with deadlines, monitoring and incentives to ensure compliance.

In addition, the report notes the need for better interagency coordination among federal health and safety regulatory agencies to facilitate the sharing of relevant information and scientific data. Finally, the report concludes that, especially in the area of health standard-setting, the agency needs additional staffing and resources to fulfill its mandate.

INFORMAL ADVICE TO AGENCIES AND CONGRESSIONAL STAFF

The staff of the Office of the Chairman also provides advice, either in written form or orally, to large numbers of department and agency personnel on a tremendous variety of administrative law questions.

■ In December, the Office of the Chairman provided extensive comments to the General Counsel's Office of the Department of Health and Human Services on that agency's draft

model regulations to implement the Program Fraud Civil Remedies Act of 1986. The Conference made several specific suggestions to improve the draft regulations including factors in mitigation of penalties, separation of prosecuting and deciding functions, and deadlines for ALJ decisions in civil penalty proceedings.

■ The Office of the Chairman has recently assisted the United States Department of State in two matters. In November, 1986, we prepared a memorandum concerning implementation of 22 U.S.C. §4304a by the Department's Office of Foreign Missions. Under that statutory provision, the Director of the Office of Foreign Missions is to impose a fee on a foreign mission whenever a member of that mission is at fault in an auto accident, is not covered by liability insurance, and has asserted diplomatic immunity or failed to satisfy a court judgment against him. The fee is to be paid to the accident victim. State Department representatives asked for advice on procedures to implement the statute.

The Conference also responded to a State Department request for advice concerning implementation of section 314 of the Immigration Reform and Control Act, P.L. 99-603, which provides for the issuance of 5000 visas over the otherwise applicable immigration quotas in each of fiscal years 1987 and 1988. Having prepared proposed procedures to accept applications for the visas from designated eligible nationalities, which (except for certain limits) are to be awarded on a first-come, first-served basis, the State Department asked for advice on whether it could publish the procedures as a final rule under the "good cause" exemption from the notice-and-comment rulemaking requirements of the Administrative Procedure Act.

CURRENT PLANS

Having summarized our past-year activities, let me turn to our current plans for the coming year. Our current research centers around the themes of improving the techniques of regulation, exploring alternative methods of agency dispute resolution, identifying procedural issues in financial services regulation, and improving the process of handling tort and other claims against the government. Subject to available funding we would hope to develop some empirical studies in these areas so that we might, for example, study the black lung program's operations and how its costs became so much greater than was expected.

Projects under Committee Consideration

The President's request for 1988 will allow us to continue our research at a modest but adequate level. Thus, while we will not have the resources to engage in large, empirical research-intensive projects, we will be able to replenish our stock of ongoing projects.

IMPROVING REGULATORY TECHNIQUES:

■ **Private-sector whistleblower protection statutes.** Currently, a variety of statutes with differing procedures protect some private-sector workers from reprisals for making health or safety related complaints. A draft report has been prepared on how these statutes are working. The Committee on Adjudication, which held a public hearing on this subject in October, 1986, is continuing its consideration of the project.

■ **An examination of the "regulatory budget" concept.** A draft paper was prepared evaluating proposals to "regulate" the regulatory process through mechanisms like a regulatory budget or other centralized checks on regulatory agency behavior. The analysis draws heavily from the "public choice" school of economics. The final report will be submitted early this year and the issue may be debated at our June Plenary Session.

■ **Division of roles in joint federal/state regulatory programs.** Numerous federal regulatory statutes create overall federal responsibility while permitting the states to operate their own implementation programs if they are approved by the federal agency as effective. We are examining several case studies, including the Clean Air Act, the Occupational Safety and Health Act, and the strip mining law and expect to have a draft report this spring.

■ **OSHA Rulemaking.** (Discussed earlier in this statement.)

EXPLORING ALTERNATIVE METHODS OF DISPUTE RESOLUTION:

■ **Need for an FOIA ombudsman.** A thorough study was conducted last spring on the need for a special tribunal to decide Freedom of Information Act cases. The Committee on Judicial Review was unconvinced of the need for such a tribunal, but asked our consultant to supplement the study by considering the need for an ombudsman. Based on this supplementary report, the Committee is continuing to consider this topic.

■ **"Delegation" issues in agency use of ADR.** The Conference's study and encouragement of agency use of arbitration, mediation, minitrials and other forms of alternative dispute resolution have led to concerns that decisionmaking authority might be unconstitutionally

delegated to non-government officers. We are examining these issues through our Committee on Administration which may develop a statement on the subject this spring.

■ **"Non-ALJ adjudication".** Much formal adjudication occurs in the federal government in a non-APA context, presided over by hearing examiners who are not administrative law judges. We are compiling data on this category of proceedings and examining selected case studies.

■ **The CFTC's procedures for adjudicating reparations cases.** The Commodity Futures Trading Commission has developed an innovative three-tier system for resolving claims brought by customers against commodities brokers. The Conference is conducting a study of the experience with these procedures.

■ **Use of minitrials by boards of contract appeals.** A half-dozen apparently successful minitrials have been held in contract disputes. Eldon Crowell, a noted government contracts practitioner in Washington, D.C. and a public member of the Administrative Conference, has agreed to do a *pro bono* study of this experience for the Committee on Administration this spring.

PROCEDURAL ISSUES IN FINANCIAL SERVICES REGULATION:

■ **Administrative procedures of the Federal Reserve Board.** The "Fed's" procedures for issuing rules and adjudicating applications under the Bank Holding Company Act and related statutes are being studied by the Conference. A final report is due this spring.

■ **Administrative problems of bank failures.** The Conference is inquiring into the procedural and regulatory problems raised by failing or almost failing banks. A report is due this spring.

■ **Bank audit and examination procedures used by federal bank regulatory agencies.** The various banking agencies have developed procedures for examining banking practices and seeking modifications through an array of informal enforcement techniques. The Conference is studying this, with a draft report due in September.

■ **Adjudication practices and procedures of the federal banking agencies.** The various bank regulatory agencies adjudicate numerous cases. However, they do not employ their own administrative law judges, nor are prior precedents in these cases readily available to the ALJs or parties. The Conference is reviewing these problems in preparation for a September report.

IMPROVING THE PROCESS OF HANDLING TORT CLAIMS:

■ **Evaluation of the Federal Tort Claims Act's discretionary function exception.** A tremendous amount of litigation has been occasioned by this exemption, and we will be examining it to see if the Act can be modified. Our study will be completed in late 1987.

■ **Indemnification of government contractors.** There is much interest and concern in Congress and the Department of Justice about agencies granting indemnification from suits to government contractors. With the support of the Department of Justice, the Conference is beginning a study of the relevant laws and practices. The study is scheduled for completion by the end of 1987.

OTHER PROJECTS:

■ **Agency implementation of the Debt Collection Act of 1982.** Numerous procedural and legal issues have been raised by agency attempts to implement this statute. Our consultant, a Washington lawyer specializing in debtor-creditor relations, is studying this area and will report to the Committee on Administration in the coming months.

■ **Guidebook for drafting federal grant legislation.** Federal grant statutes tend to be drafted in a highly inconsistent manner leading to difficult implementation problems. The Conference retained a former Chairman of the Department of Health and Human Services Grant Appeals Board to prepare a handbook for legislative drafting in this area. The handbook should be submitted by the end of the year.

■ **Judicial review implications of the TRAC case.** The D.C. Circuit's decision in *TRAC v. FCC*, 750 F.2d 70 (1984), requires that, in cases where final agency action is directly reviewable in the courts of appeals, all actions relating to the proceeding (including suits challenging agency delay) must also be brought in the appellate courts. The Conference is studying the ramifications of this decision through its Committee on Judicial Review.

■ **Feasibility of a center for state administrative law.** The American Bar Association's Section of Administrative Law requested that the Conference work with them on this issue. Our consultant has submitted a final report suggesting the need for such a center and how it should be structured.

■ **Federal agency hiring of private attorneys.** A survey of agency practices in this area is being undertaken by the Conference with a final report to be completed this spring. A supplementary report on ethics issues raised by this practice has been submitted. The

Committee on Governmental Processes has held a public hearing on this subject and will be deliberating proposed recommendations during the spring.

■ **Federal agency "nonacquiescence" in decisions of reviewing courts.** In past years, the policies of the Internal Revenue Service and the National Labor Relations Board in not following some decisions of circuit courts were questioned. In recent years the Department of Health and Human Services has followed a similar policy in Social Security and Medicare cases. The Conference is taking a broad look at this issue, with a draft report for the Committee on Judicial Review expected by September, 1987.

I should mention that as a result of the Gramm-Rudman-Hollings reductions, we have redoubled our efforts to find funds for projects that other agencies might be willing to fund. I am pleased to report that we have been successful in that we have received funding commitments from eight agencies to assist in our on-going project on the general subject of user fees for federal agency services. We are also experimenting with several "pro-bono" projects including one on the use of minitrials by boards of contract appeals. We have agreed to pay the consulting law firm's out-of-pocket expenses but the time they will devote to this project will be considerable and it will all be donated to the Administrative Conference.

We have also been successful in attracting foundation funding for ACUS activity. The TRW Foundation, which has been a leader in promoting ADR research, has provided $7500 to support our upcoming ADR colloquium -- a major effort to disseminate ADR information throughout the government bureaucracy. While we are grateful for these kinds of interagency and foundation funding, they are no substitute for having an adequate appropriation. We cannot count on finding agencies or private sources that have funds that they can contribute -- especially due to the environment of necessary reductions that the government is facing. But I mention this to assure you that the Administrative Conference will continue to maximize its resources in every way possible.

Another new initiative that I hope to undertake is to augment our efforts at implementation, both with Federal agencies, to whom the bulk of our recommendations are addressed, and with respect to the Congress itself. The ultimate effectiveness with which the Administrative Conference performs its mission suffers because we are not well enough known. Many committees on the Hill, for example, know us and seek our advice routinely. Others, through lack of institutional contact or through changes in staff, do not know of our

work. To this end, I have augmented our staff by one attorney to concentrate on these efforts.

There could also be one very good side-effect of increased activity both with agencies and the Hill: I think that among the most valuable work the agency has performed has been in response to Congressional mandates. I'm thinking especially here of the Administrative Conference's role in the Equal Access to Justice Act, where I believe we were both extremely cost-effective and extremely valuable in terms of preserving Congressional intent. We developed one set of model rules, after agency participation, which saved the time of thirty-three agencies having to separately to go through the thinking, drafting, and publishing-for-comment that we did. Moreover, I think it is equally clear that the Conference's work helped to produce good rules, faithfully reflecting Congress's intent.

I welcome additional roles of this kind for the Administrative Conference. I hope you will remember, in considering the President's funding request, that the Administrative Conference's work results in considerable savings to the government as it goes about its work in the administrative law area, and also to the citizens who seek to use the administrative processes in their dealings with the government.

It is an exciting time to be in the administrative law field, and I am honored to be heading the Administrative Conference as we navigate many new and untrodden paths. It is an adventure that not only is intellectually satisfying but, I believe, will significantly improve the administrative process by promoting fairness to citizens and litigants and greater efficiency of government agencies.

Mr. Chairman and members of the Subcommittee, this concludes my prepared testimony. I thank you for your attention. We stand ready to respond to any questions.

APPENDIX A

1986 Recommendations of the Administrative Conference of the U.S.

Recommendation 86-1: Nonlawyer Assistance and Representation

The first of these recommendations, Recommendation 86-1, calls for increased opportunities for non-lawyers to assist and represent claimants in "mass justice" programs such as Social Security and immigration. We use the term "mass justice" to categorize an

agency program in which a large number of claims or disputes involving individual or family matters come before an agency.

A substantial number of individuals involved in federal "mass justice" agency proceedings need and desire assistance in filling out forms, filing claims, and appearing in agency proceedings, but are unable to afford assistance or representation by lawyers. A lack of assistance or representation reduces the probability that an individual will obtain favorable results in dealing with an agency. Further, unassisted individuals are likely to cause a loss of agency efficiency by requiring more time, effort, and help from the agency.

Federal agencies currently provide help to persons involved in agency proceedings through information given by agency personnel and through funding of legal aid programs and approval or payment of attorney fee awards. This recommendation does not deal with whether government aid may be needed for persons who cannot afford any form of assistance. This recommendation focuses on the potential for increasing the availability of assistance by nonlawyers. Federal agency experience and statistics indicate that qualified persons who are not lawyers generally are capable of providing effective assistance to individuals in mass justice agency proceedings.

Agency practices do not currently maximize the potential for free choice of assistance, and, in some instances, may hinder the availability of qualified, low-cost assistance by nonlawyers. Our recommendation encourages agencies to take the steps necessary to encourage -- as well as eliminate inappropriate barriers to -- nonlawyer assistance and representation. Agencies should review their rules of practice that deal with attorney conduct to ensure that similar rules are made applicable to non-lawyers where appropriate.

Recommendation 86-2: Use of Federal Rules of Evidence in Federal Agency Adjudications

This recommendation urged Congress not to require federal agencies to apply the Federal Rules of Evidence to agency proceedings. Our committee was prompted to study this issue after recognizing that federal agencies have adopted many different sets of rules governing admission of evidence in formal adjudications. The evidentiary standard of the Administrative Procedure Act is broadly permissive and is sometimes in conflict with the rules expressed in the Federal Rules of Evidence. Recommendation 86-2 encourages agencies to adopt evidentiary regulations applicable to formal adversarial adjudications that clearly confer on presiding officers discretion to exclude unreliable evidence and to use the weighted balancing test in Rule 403 of the Federal Rules of Evidence. Rule 403 allows the

exclusion of evidence, the probative value of which is substantially outweighed by other factors, including its potential for undue consumption of time. A corollary recommendation was that agencies announce in advance of a formal adjudication as many of the foreseeable factual issues which would be material to the resolution of the adjudication.

Recommendation 86-3: Agencies' Use of Alternative Means of Dispute Resolution

Recommendation 86-3 urged federal agencies and Congress to make greater use of alternatives to litigation and trial-type hearings. Such alternative means of dispute resolution would significantly reduce the costs and delays which are routinely incurred in administrative proceedings. Many agencies act pursuant to procedures that waste litigants' time and society's resources; the formality which is inherent in many of these agencies' proceedings often reduces the opportunity for consensual resolution. Among the alternative means of dispute resolution or "ADR" methods recommended are voluntary arbitration, mandatory arbitration, factfinding, minitrials, mediation, facilitating, convening and negotiation. The Conference recommended that ADR be employed by agencies where such a procedure would not be inconsistent with statutory authority. Until more experience has been developed with respect to ADR use in the administrative process, the procedures should be offered as a voluntary, alternative means to resolve controversy. It is also important that Congress and the courts not inhibit agency use of ADR techniques by requiring formality where it is inappropriate.

As a means of further enhancing this recommendation, the Administrative Conference will sponsor a special colloquium in Washington on June 1 intended to raise agency consciousness about "ADR", introducing government officials to methods which have been used successfully in the private sector.

This colloquium is funded with assistance from the Department of Justice and the Equal Employment Opportunity Commission. We are particularly pleased that we were able to secure additional private foundation funding to support a project which will reduce government cost and increase both government fairness and efficiency. We hope to encourage the private sector to participate in our on-going activities in other program areas during the coming months. (A partial list of confirmed participants and a draft program is attached at Appendix B.)

Recommendation 86-4: The Split-Enforcement Model for Agency Adjudication

On occasion, Congress has established an enforcement scheme in which rulemaking and prosecution are assigned to one agency and adjudication to another agency. In such instances, Recommendation 86-4 recommends that the Congress should clearly note which agency has programmatic responsibility and direct the courts to look to that agency for authoritative expressions of law or policy. Congress should also attempt to foresee other areas of potential conflict, such as control over litigation and settlements, and should specify wherever possible the respective responsibilities of each agency and the procedures for resolving disagreements. It is suggested that the adjudicatory agency accept the rulemaking agency's interpretation of a standard unless it can be shown that the rulemaking agency's interpretation was arbitrary, capricious, or otherwise not in accordance with the law. Where uncertainties exist with regard to the responsibilities of agencies already implementing split-enforcement schemes, Congress should act to resolve those uncertainties consistent with the foregoing recommendation, if the agencies are unable to do so.

Recommendation 86-5: Medicare Appeals

Recommendation 86-5 addressed important aspects of Medicare appeals. The Conference recommends that the Health Care Financing Administration (HCFA) provide reasonable access to all standards, guidelines and procedures used in making coverage and payment determinations under Part A and Part B of the Medicare program. It urged, as well, that HCFA keep its public compilations of such materials up-to-date. When HCFA promulgates interpretations of Medicare benefits which are likely to have substantial impact on the public, procedures should be adopted which allow for public comment. By agency regulation or Congressional legislation, a means should be established which requires fiscal intermediaries and carriers to publish and provide reasonable access to all insurance industry rules or other screening devices used in making coverage and payment determinations under Part A and Part B. Additionally, the Department of Health and Human Services should introduce more openness and regularity into the procedure for issuing "national coverage decisions" pertaining to new medical technologies and procedures. This could be achieved through 1) development of published decisional criteria; 2) provision for notice and comment both in HCFA's decisionmaking process and in the manner by which the HHS Office of Health Technology Assessment supplies recommendations to HCFA; and 3) provision for internal administrative review or reconsideration of such decisions. The Conference found a

number of areas for further study within the agency which the Conference has communicated to the Health Care Financing Administration.

Recommendation 86-6: Petitions for Rulemaking

Recommendation 86-6 treats the concern that public rulemaking petitions are not receiving adequate response by administrative agencies. The Conference urges agencies to establish by rule basic procedures for the receipt, consideration, and prompt disposition of petitions for rulemaking. These basic procedures should include: (a) specification of the address(es) for the filing of petitions and an outline of the recommended contents of the petition, the statutory authority for the action requested, and a description of the rule to be issued, amended, or repealed; (b) maintenance of a publicly available petition file; and (c) provision for prompt notification to the petitioner of the action taken on the petition, with a summary explanatory statement.

In addition, agencies should where appropriate and feasible make their petition procedures expressly applicable to all types of rules the agency has authority to adopt. Internal management controls should be adopted to assure the timely processing of petitions for rulemaking, including deadlines for completing interim actions and reaching conclusions on petitions. Systems should be developed to monitor compliance with those deadlines.

Recommendation 86-7: Case Management as a Tool for Improving Agency Adjudication

In this recommendation, the Conference encourages the prompt, efficient and inexpensive processing of adjudicative proceedings. Federal agencies should formulate written criteria for measuring case handling efficiency, prescribe procedures, and develop techniques for the expeditious and accurate disposition of cases. Once formulated, regular computerized case status reports should be employed to further ensure the systematic application of criteria. Additional issues to be addressed through case management are use of telephone conferences and hearings, intra-agency review, and joint consideration of cases with common issues.

Recommendation 86-8: Acquiring the Services of "Neutrals" for Alternative Means of Dispute Resolution

Recommendation 86-8 is built upon some of the premises contained in our earlier recommendation on alternative dispute resolution (Recommendation 86-3). The

Administrative Conference has repeatedly encouraged agencies to utilize mediation, negotiation, minitrials, binding arbitration and other alternative means of dispute resolution, (ADR). Our eighth recommendation sought to help agencies explore specific avenues to expand their use of ADR services. A key figure in the effectiveness of various modes of ADR is the "neutral", a person, usually serving at the will of the parties, who generally presides and seeks to help the parties reach a resolution of their dispute. The Conference suggests that agencies and reviewing bodies pursue policies that will lead to an expanded, diverse supply of available neutrals. The agency should recognize that the skills required to perform such a role will vary greatly depending upon the nature and complexity of the issues, the ADR method employed and the importance of the dispute. It was recommended that Congress provide funding to appropriate agencies in order that personnel be trained to serve as ADR neutrals. The Conference is eager to help agencies identify qualified neutrals and acquire their services where appropriate.

APPENDIX B

Administrative Conference of the United States

Colloquium on Alternative Means of
Dispute Resolution in Agency
Decisionmaking

June 1, 1987

Partial List of Confirmed Participants

Government

*Hon. Arnold I. Burns, Deputy Attorney General, Department of Justice
Hon. Terry Calvani, Commissioner, Federal Trade Commission
Lester Edelman, Esq., Chief Counsel, U.S. Army Corps of Engineers
Hon. Harry T. Edwards, Judge, U.S. Court of Appeals for the District of Columbia Circuit
Hon. F. Henry Habicht II, Assistant Attorney General, Land and National Resources Division, Department of Justice
Senator Orrin G. Hatch
Hon. Kay McMurray, Director, Federal Mediation and Conciliation Service
*Hon. Douglas A. Riggs, General Counsel, Department of Commerce
Hon. Clarence Thomas, Chairman, Equal Employment Opportunity Commission
Hon. Lee M. Thomas, Administrator, Environmental Protection Agency
Hon. Patricia M. Wald, Chief Judge, U.S. Court of Appeals for the District of Columbia Circuit
Hon. Richard K. Willard, Assistant Attorney General, Civil Division, Department of Justice

Private

Ms. Gail Bingham, Senior Associate, Conservation Foundation
Professor Harold M. Bruff, University of Texas Law School, consultant to the Conference
Mr. Robert Coulson, President, American Arbitration Association
*Eldon H. Crowell, Esq., Crowell & Moring, Chairman, Center for Public Resources Government Disputes Committee
Professor John T. Dunlop, Harvard University, formerly Secretary of Labor
Professor Robben Wright Fleming, University of Michigan Law School, Chairman of the National Institute for Dispute Resolution
*Professor Walter Gellhorn, Columbia University School of Law
Philip J. Harter, Esq., Washington, D.C., consultant to the Conference
Mr. James Henry, President, Center for Public Resources
*Carolyn B. Kuhl, Esq., Munger, Tolles and Olson, Los Angeles, California, formerly Deputy Solicitor General
Mr. Jack K. Lemley, Senior Vice President - Construction, Morrison - Knudsen Company, Inc.
Marguerite Millhauser, Esq., Steptoe & Johnson, consultant to the Conference
*Alan B. Morrison, Esq., Director, Public Citizen Litigation Group
George D. Ruttinger, Esq., Crowell & Moring, consultant to the Conference

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* Members of the Administrative Conference

Draft 2-25-87

Administrative Conference of the United States

Colloquium on Alternative Means of Dispute Resolution in Agency Decisionmaking

Tentative Schedule

8:45 **Registration/coffee, tea and pastries**

9:00 **Welcome/Introduction** *Marshall Breger*

9:15 **Keynote address**

9:45 **Panel - ADR in government: Background and basic issues**

Address - *John Dunlop* - Varieties of ADR/history/theory/government potential
Responses - [2 or 3] *Willard* or *Habicht/Edwards*
Questions - *Walter Gellhorn* [and *Breger*?] [Audience?]

10:30 **Recess**

10:45 **Panel - What opportunities exist for using mediation and other forms of ADR in enforcement and litigation?**
Possible Moderator *Wald*
Possible Presenters *L. Thomas/Habicht* or *Willard*
Possible Panelists *C. Thomas/Cormick/Robinson/Dunlop*
Possible Issues
- When are mediation and other kinds of ADR likely to be useful?
- What kind where? Where not? Evaluating ADR potential?
- Where should mediators or other neutrals come from? How paid?
- Mediation as "second class justice"
- Is mediation appropriate for conciliating EEO cases?
- What are potential uses with Superfund, environmental enforcement cases, and siting disputes?
- How should mediation be instigated?
- Persuading reluctant parties to use ADR
- Confidentiality - special problems given government disputes involved?
- Court cases - Justice's special masters policy, settlement policy
- Changes in intra-agency review to encourage ADR?
- Uses for fact finding, arbitration?
- Some government attorneys seen as crusaders rather than "dispute resolvers"

12:00 **Lunch**

12:45 **Lunch speaker**

1:30 **Concurrent panel one - What is ADR's potential in rulemaking?**
Possible Moderator *Olpin*
Possible Presenters *L. Thomas/Harter*
Possible Panelists *Wald/Calvani/Morrison/McMurray/Bingham/Eisner*
Possible Issues
- Negotiated rulemaking to date/conditions for success/lessons for agencies, participants
- Variety, complexity, controversy of many issues tackled
- Costs and benefits of reg neg for various parties, relative to regular process
- How reg neg works - investigation/convening/mediation/stages of each
- Reg neg as improper delegation of policymaking?
- Funding smaller, necessary parties to participate
- Legal concerns - FACA, judicial review

Concurrent panel two - ADR in contract claims?
Possible Moderator *Riggs*
Possible Presenters *Crowell*
Possible Panelists *Lemley/Kuhl/Henry/Coulson*
Possible Issues
- Agencies' experiences with policy statements on minitrials; ensuring use of minitrials once policy is issued
- Agency minitrials - kinds of advocacy, settlements, process, agreements, intra-agency review
- "Second-guessing" (IGs, auditors, Congress, press)

- Implementation within BCAs, agencies - finding, hiring neutrals; rosters
- Arbitration usage
- Settlement authority/identity of principal negotiators
- Prospects for ADR at Contracting Officer level?

2:50 Recess

3:10 Brief statement - *Marshall Breger* - Administrative Conference's role/ personal observations

3:15 Panel - Where does the government go from here?
Possible Moderator *Gellhorn*
Possible Presenters *Burns*
Possible Panelists *L. Thomas/C. Thomas/Coulson/Fleming/McMurray/Harter/Bruff*
Possible Issues
- Statutory or agency actions that are necessary or desirable?
- Safeguards needed?
- Areas worth focusing on; where further data needed
- Screening for ADR susceptibility
- Barriers to parties' participation?
- Legal issues, especially with arbitration (constitutional, GAO concerns)
- Building agency and public awareness of dispute resolution options
- Modifying inter-agency review structures? Training agency officials, lawyers?
- Agency implementation; getting regions et al., within agency to get serious about implementing ADR policies
- Need or use for central dispute resolution agency like some states? FMCS?
- Roles of Congress, Courts, OMB

4:45 Summation [Possible alternative: audience questions]

5:15 Farewell - *Marshall Breger*

5:15 - 6:30 Reception *and* cocktails!

REIMBURSABLE PROGRAM DECLINE

Senator DECONCINI. Your reimbursable program has shown a rather sharp decline since fiscal year 1986 from $212,000 down to $100,000 for next year. What do you attribute this drop in your program to, and can you give us some examples of how it happened?

Mr. BABCOCK. Yes, sir; I do not think, as of today, that it will, in fact, drop. These estimates are prepared in advance and one never knows for certain what one will get in terms of money because such things as the OSHA study that the Chairman just mentioned were paid for by OSHA. It is entirely up to the other agencies what they want us to do that they are willing to pay for. Quite often the majority of the money we receive in a fiscal year comes in toward the end of that fiscal year.

As of the moment we have in hand $72,999. Why it is not an even figure, I do not know. I would guess that it might, in fact, even go up. But one never knows, even if you have an agreement saying they will provide a certain sum. We have had a practice of, in general, not doing a study unless we have the money in the bank, because the only commodity that this organization really has that is valuable—that justifies its use of the taxpayer's money—is its integrity.

And no matter how well-intentioned other agencies may be in wanting us to study something, it is easier to come up with a completely objective result if you are not worried about whether they are going to cut off the money, despite the fact that you have already paid a consultant.

Senator DECONCINI. Has that happened to you before?

Mr. BABCOCK. Yes; we had one problem of perceptions of trying to influence the outcome of a study, sir. It did not work, but it was a real

hassle—and there are exceptions even now, but this is a long explanation. The short answer is that it will not go down even though a conservative projection is what you have in front of you.

Mr. BREGER. Perhaps I could add one other point. Most of our work is not done on contract or reimbursable through an interagency agreement. We see an area that needs work and we go ahead and do it. In part because of budget stringencies, in order to do work which we thought important but which we did not have the resources, we have suggested to agencies, for example, we want to do a major study of user fees. We want to do an across-the-board study which will affect a whole variety of agencies. We could never afford to do such a study ourselves but if you will each come in for $15,000 to $20,000, then we will have a pot where we can do this kind of big study.

Our success in doing that—you might say our entrepreneurial success—depends in part on our credibility throughout the Government and, of course, the tremendous needs felt by the agencies for advice and assistance. We are more comfortable asking eight agencies to support a small piece of a broad-based study for the very reason that Mr. Babcock suggested. Then we feel that they are not leaning over our shoulder.

Senator DECONCINI. How many of your studies or efforts at administrative analysis are so-called contract?

Mr. BREGER. No more than three or four a year.

Senator DECONCINI. What is that percent? How many do you do?

Mr. BABCOCK. It is 10 or 15 percent.

Senator DECONCINI. It is 10 or 15 percent, so it is small.

Mr. BABCOCK. Yes; and I think it would be a mistake to increase it beyond a certain point, or else we would turn into a beltway bandit. There is a sort of a perspective of being a Government agency depending upon you and this process for funding, principally and predominantly, that gives us a different perspective and gives us more credibility in the long run than if we became too dependent upon getting funds from other agencies. It is a judgment call.

Senator DECONCINI. Mr. Chairman, your other services budget has been somewhat of a roller coaster since 1986. In 1986 you received $158,000 and then other services dipped down to $85,000 and now it has jumped back up to $122,000, an increase of $37,000, or 44 percent over last year's level. Can you explain the fluctuation in the other services classification account?

Mr. BREGER. I will ask Mr. Babcock to respond.

Mr. BABCOCK. You are talking about the increase, Senator, of 1988 over 1987?

Senator DECONCINI. Over 1986.

Mr. BABCOCK. Well, it dips in 1987.

Senator DECONCINI. Yes; in 1986 you received $158,000?

Mr. BABCOCK. Right.

Senator DECONCINI. Then it dipped down to $85,000 for 1987?

Mr. BABCOCK. That is right.

Senator DECONCINI. And now it is back up to $122,000. I just wondered why there was a big fluctuation there?

Mr. BABCOCK. OK. That account includes the money that we pay to the law professors that we hire as consultants to do our research. It, in effect, is the marginal money, the money we have left over to do research. It has dipped this year principally because our "Salary and expense" account went up—you will notice that very top number on the page there—because of the pay raises that took effect in January, two separate pay raises, one for the civil service generally, the GS people, and a separate one for those of us lucky enough to be in the SES or executive level pay. We were affected by that second pay raise too. So that is the answer.

Mr. BREGER. May I make two contextual points. First, because our funding level is relatively smallish in the Government scheme of things, our decision to purchase three or four computers can change the budget by a proportion of 20 or 30 percent. You know, we could say we are going to spend $40,000 for computers. Already that boosts that portion of our expenditures considerably higher.

So that, if there is a roller coaster effect on some of these figures, it is in part because of the fact that our fixed costs are hard to change and if we make one change in them it makes a big effect on what the cost structure looks like.

Second, regarding the other services, that is really our cream. That is what we are most concerned with because that is where we go and make direct contracts to professors for research. When that goes down because of other costs or budget stringencies it is for that reason that we start to look around for ways of getting some other funds, either from private foundations, which we have done in one case, or from other Government agencies. I mean, it is to drive that engine of direct research.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you, Mr. Breger, gentlemen. I appreciate it, and please respond to Senator Domenici's questions for the record.

Mr. BREGER. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DOMENICI

ORIGINAL REQUEST TO OMB

Question. Your fiscal year 1988 budget request is $1,681,000—$212,000 over your current level. What was your initial request to OMB and where did they cut you back, if at all?

Answer. Because of its size, the President's budget request for the Administrative Conference does not contain line items but consists of one figure. Thus, when and if OMB reduces our own request in its budget mark, it is difficult to point to particular areas of cutback. Our fiscal 1988 budget request transmitted to OMB was $1,670,000. Our request of $1,670,000 reached the OMB requested level of $1,681,000 due to the

addition of congressionally mandated pay raises and Federal Employee Retirement System [FERS] contributions.

Advisory and Consultative Activities

Question. You say that you spend about 15 percent of your budget on advisory and consultative activities, including testifying before Congress, writing comment letters and working with congressional staff on legislation. Fifteen percent amounts to about $250,000. Could you give us some examples of what you plan to do in these areas in fiscal year 1988? And tell us what would be the effect of your consulting and advisory activities if we were to reduce this part of your budget by, say, 15 percent?

Answer. Over the last year, the Conference has made a special effort to provide advisory and consultative activities both to Congress and to agencies on procedural aspects of major legislation.

Thus, as example, we testified and perhaps more importantly provided informal expert advice on the Program Fraud Civil Remedies Act of 1986, on proposed Freedom of Information Act Amendments of 1986, and we commented upon the draft of the administration's Financial Services Regulatory Efficiency Act of 1986. On innumerable occasions we responded to congressional staff, OMB, and agency inquiries on aspects of the Administrative Procedure Act, Federal Advisory Committee Act, the Sunshine Act, and other generic administrative law statutes.

This year, because committee staff have become increasingly aware of our expertise we have begun to receive requests to review proposed legislation before they are introduced to ensure against inadvertent administrative law problems. Thus, as example, we have been asked to review a draft bill which would affect the administrative law judges and to consult on legislation on negotiated rulemaking in Federal agencies.

Research Budget

Question. You say in your statement that the Conference spends 55 percent of its budget on its research activities—about $925,000 next year. How does the fiscal year 1988 request compare to last year and what would be the effect on your research effort next year if we were to cut you back 15 percent?

Answer. Last year the Administrative Conference spent 60 percent of its budget in research activities. The 5-percent drop in the fiscal year 1988 request is attributable to an increase in our consultative and advice activity with Congress and agencies. If the Conference was cut back another 15 percent, our ability to conduct new, original research in needed areas of administrative law reform would be scaled down. It is unlikely that we could afford any empirically based research (the cost of which is far greater than the $7,000 to $10,000 we usually pay law professors for studies). In particular, the loss of $252,000 would likely mean that we would not be able to continue our tort reform research agenda or develop needed and requested studies on problems in ethics in Government. This year we have devoted about $50,000 to develop projects under our newly created Special Committee on Financial Services. A cutback will endanger our shoestring effort in that area as well.

ADVISORY COMMITTEE ON FEDERAL PAY

STATEMENT OF MARTIN DUGGAN, CHAIRMAN

ACCOMPANIED BY LUCRETIA DEWEY TANNER, EXECUTIVE DIRECTOR

INTRODUCTION OF ASSOCIATE

Senator DECONCINI. Our next witness will be Martin Duggan, Chairman of the Advisory Committee on Federal Pay.

Good morning Mr. Duggan. How are you.

Mr. DUGGAN. Good morning, Senator. I am fine, thank you. I would like to introduce Ms. Lucretia Dewey Tanner, who is the Executive Director of the Advisory Committee.

Senator DECONCINI. How do you do, Ms. Tanner. Glad to have you with us.

ADVISORY COMMITTEE ON FEDERAL PAY COMPOSITION AND ACTIVITIES

Mr. DUGGAN. Shall we go on?

Senator DECONCINI. Yes; you may.

Mr. DUGGAN. Briefly, the Advisory Committee on Federal Pay was established by the Federal Pay Comparability Pay Act of 1970. There are three members from the private sector appointed by the President for 6 year terms on a staggered basis. Last year a new colleague was appointed to the committee. His name is W. Perry Brown, vice president and director for personnel of the American Cyanamid Co.

On an annual basis the committee is called upon to testify before appropriate committees in Congress on various changes that have been proposed for Federal pay. We anticipate that this year we will be invited to do the same. We believe that we have the honor of being the smallest agency in the Federal Government and we hope that that is appealing to you. Our request for fiscal year 1988 is $206,000. This covers salaries, rent, travel, and related matters. And in substance, that is all I have to say to you sir. I will be happy to answer any questions.

PREPARED STATEMENT

Senator DECONCINI. Thank you, Mr. Duggan. Your full statement will be inserted in the record.

[The statement follows:]

STATEMENT OF MARTIN L. DUGGAN

I am Martin L. Duggan, Chairman of the Advisory Committee on Federal Pay. Thank you for inviting me to appear before you today. I would like to present a summary statement about the Committee's activities and concerns, in addition to the budget request for Fiscal Year 1988.

First, let me provide a brief background on the Advisory Committee on Federal Pay. This Committee was established by the Federal Pay Comparability Act of 1970 (Public Law 91-656) as an independent body and adviser to the President on pay matters. The Committee's recommendations apply to pay affecting approximately 1.4 million Federal employees covered by the General Schedule and those linked to the General Schedule who are employed by the Department of Medicine and Surgery of the Veterans Administration and the Foreign Service. In addition, pay adjustments for the approximately 450,000 blue-collar workers have been capped at the white-collar increases since 1978. The Committee is composed of private citizens who are appointed by the President to serve 6-year staggered terms. Day-to-day activities of the Committee are carried out by two General Schedule staff employees.

On August 27, 1986, the Advisory Committee submitted its annual report to the President. The report included a recommendation stating that a pay increase averaging 4 percent was warranted and should become effective October 1986. Specifically, the recommendation called for increases ranging from 3 percent up to 5 percent for Grades 13 and above. The Committee pointed out that strict comparability with the private sector provides for varying increases and the slightly higher adjustments for the upper grades would help relieve pay compression problems. The Committee arrived at the 4-percent average by reviewing the Bureau of Labor Statistics' Employment Cost Index, which showed that pay for white-collar employees advanced 4.2 percent for the June 1985 to June 1986 period. With your permission, I would like to request that the Committee's 1986 report be made part of this official testimony.

The Committee's recommendation differs from the findings of the Pay Agent (composed of the Directors of the Office of Management and Budget and the Office of Personnel Management and the Secretary of Labor). In

their own separate report to the President, they noted that a 23.9-percent pay gap existed.

In past years, the Pay Agent's report has been critical of the pay survey for not reflecting wages in the total economy. Known as the National Survey of Professional, Administrative, Technical, and Clerical Pay, this annual study has been produced since 1960 and modified periodically to add occupations, industries and smaller establishments. By law, it excludes State and local governments. As a result of the controversy over the survey scope, however, the Pay Agent agreed that a more expanded survey should be undertaken. The first phase of this survey was completed for the 1986 survey results and included smaller sized establishments, those with 50 or fewer employees. Even with this new expanded version, the gap was 23.9 percent. If the smaller sized establishments had not been included and if the new occupation (general clerk) had not been added, the pay gap would have been only .1 percent higher, or 24.0 percent.

For the 1987 survey, BLS was to undertake the second phase of the expansion, which was to cover State and local government rates. This has been put aside for now, but BLS is surveying establishments with as few as 20 employees in a broad range of service industries. The data previously collected in 1986 will be updated using the Employment Cost Index. We understand that future surveys will be further modified to conform with the Congressional mandate to the Department of Labor in its 1987 appropriation package. The new survey is to be even more comprehensive and include wages and benefits for all white-collar workers in the Nation. BLS is expected to report its progress on developing this new survey to Congress in August 1987.

Let me turn from the technical discussion of the survey to the even more important overall changes that have been suggested. In 1986, several bills were introduced in Congress to change the current pay setting system and many have been resubmitted to the 100th Congress. Last year, hearings were held before both the Senate Subcommittee on Civil Service, Post Office and General Services and the House Subcommittee on Compensation and Employee Benefits. The Administration, unions, employee associations, private consultants and the Advisory Committee were asked to testify on the proposed

changes. We anticipate that hearings will again be held and that the Committee will be asked to offer its opinion on the various proposals.

I'll just briefly mention a few of the changes that are contemplated. The Administration has submitted a bill that is modeled after the Navy's China Lake experiment. The experiment involves compressing the 18 grades into 4 or 5, changes classification, permits hiring at market rates within the broad band of grades and bases movement through the range on performance. Each agency would have the option of adopting the plan for the entire agency or selected occupations or locations. Another bill, H.R. 386, "Federal Pay Management Act of 1987," introduced by Representative Mary Rose Oakar on January 6, 1987, would establish 5 to 10 demonstration projects with a potential 250,000 employees under them. Projects would involve total compensation comparability, geographic pay, collective bargaining, performance pay, and a combination of systems. In addition, the alternative pay plan provision of the Act would be changed to limit the President's ability to reduce the annual adjustment to times of mandatory wage and price controls only. The bill also makes it easier for agencies to establish special rates for occupations in hard to attract and retain categories.

In the last session, Congress did enact special legislation for the National Bureau of Standards that provides for total compensation comparability and we understand they are developing a plan to implement the changes by January 1988.

A number of factors are motivating the Administration, members of Congress, unions, associations and others to seek a change in the current pay system. First, the pay gap of 24 percent is unlikely to be bridged and the wage disparity is causing problems in recruiting and retaining qualified people. Agencies are clamoring for special rates to be applied to all types of positions across the country. Currently, some 55,000 people, primarily engineers and health care professionals but also clerical workers, are among those in the special rate category. While not now overwhelming, this number has been rapidly growing in recent years and promises to escalate. OPM is currently conducting a study on the need for

special rates for all clericals in Washington, D.C., which would bring in an additional 42,000 people in GS-2-7. A decision is expected in April. The same problems exist in other parts of the country as well.

In addition to the pay gap, there is increased emphasis on the need to reward top performers rather than reward all on a relatively equal basis. Merit pay is considered a way of motivating people to excel and improve overall productivity.

A great deal has been said about merit pay and other pay practices in industry. As a way of offering concrete information on which to base future changes in the Federal pay structure, the Advisory Committee will contract with The Wyatt Company to conduct a study of private industry pay practices. The study asks employers to describe their approach to paying employees in several locations, how their merit pay system works, how job evaluation is conducted, and who administers the pay plans. Wyatt, in cooperation with the American Compensation Association will distribute a questionnaire to its 6,000 members, who represent a cross section of American industry. We expect the questionnaires to be analyzed and the results released by June.

The Advisory Committee will announce the start of the study in a news release. After the results are in, of course, the Federal Government must make some choices. It can follow prevailing industry practices or it can decide that government is a unique employer that requires different policies. The Committee's survey will merely provide some of the information on which informed choices can be made. I might also add that this is being undertaken at the very reasonable cost of $10,000, from start to finish.

In its testimony last year, and it may well be repeated in 1987, the Committee has cautioned against changing the current system for the sake of change or because no one has the definitive answer to all the pay problems. Regardless of the system adopted, issues and details will continually need modifying, updating and revising. Change, if it is needed, and it appears that change will come, should be based on uniform policies and centrally administered procedures that would govern the entire 1.4 million workers. Anything less will result in chaos.

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Let me now turn to the Advisory Committee's 1988 budget request. Our budget requirements are modest. For Fiscal Year 1988 we request $206,000. This sum covers salaries and travel expenses of staff and Committee members when they are on Committee business, as well as rent and operating expenses of our headquarters office. The Committee has always been frugal and has exercised financial restraint. These funds cover the bare necessities and there is a minimum of discretionary spending included in this amount.

In the coming year, we anticipate that a great deal of discussion will center on pay and benefits of Federal workers and our Committee will devote its efforts to analyzing the current issues and be prepared to offer its recommendations.

This concludes my remarks and I will be happy to answer questions.

ANNUAL REPORT OF ADVISORY COMMITTEE

Mr. DUGGAN. Very good. I appreciate that. Also, annually we are required to submit a recommendation to the President, and I would like to request that our report to the President be made a part of the record also.

Senator DECONCINI. Without objection it will appear in the record.

[The information follows:]

REPORT ON THE FISCAL YEAR 1987 PAY ADJUSTMENT UNDER THE FEDERAL STATUTORY PAY SYSTEMS

Annual Report of the

Advisory Committee on Federal Pay

August 27, 1986

August 27, 1986

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The Advisory Committee on Federal Pay has the privilege of submitting its fifteenth annual report to you. This report includes the Committee's recommendations for the Fiscal Year 1987 pay adjustment that affects the 1.4 million white-collar employees and the other statutory pay systems linked to it.

The Committee believes it has arrived at a recommendation that balances fairness to the work force with the need to reduce the deficit. We stand ready to discuss this recommendation with you at any time.

Respectfully submitted,

Frank G. Zarb
Member

W. Perry Brown
Member

Martin L. Duggan
Chairman

FISCAL YEAR 1987 PAY ADJUSTMENT

Summary

— The Advisory Committee has reviewed the Pay Agent comparability data and has had the opportunity to meet with members of the Federal Employees Pay Council and representatives of employee organizations. It has carefully weighed these views along with the Administration budget proposals and Congressional actions as well as the need to reduce the deficit.

The Advisory Committee recommends, effective October 1986, Federal white-collar workers be granted an average 4 percent pay adjustment, ranging from 3 to 5 percent for GS-13 and above. This recommendation is based on the Employment Cost Index change from June 1985 to June 1986 for white-collar private sector workers (excluding sales), which showed a 4.2 percent increase. The Advisory Committee is concerned over the

widening comparability pay gap and believes reasonable increases should be granted to keep the situation from growing worse.

— In the past year, a proliferation of pay bills have been introduced into Congress to change the current pay system for selected occupations or for the entire Federal Government. The Advisory Committee recommends that action not be taken on a piecemeal basis. While the Committee applauds the "China Lake" demonstration project and its success, it also believes that additional experimentation should take place, not only of this form of pay system but of others that include locality pay, total compensation comparability, and other forms of compensation found in the private sector.

— In the Advisory Committee's Fiscal Year 1986 report to the President, it recommended that problems of turnover in the Federal Government and its cost implications be studied. These issues have been addressed in part by a Congressional Budget Office study and testimony presented by a number of agencies. However, the Advisory Committee believes that an independent study should be funded to carefully review the cost of turnover and the degree that turnover is related to the pay gap.

Introduction

The Federal Pay Comparability Act of 1970 (P.L. 91-656) requires that the Advisory Committee on Federal Pay report each year its views and recommendations for pay adjustments to the President. These adjustments affect approximately 1.4 million white-collar workers in the Executive Branch of the government. Also linked to the General Schedule are the Veterans Administration's Department of Medicine and Surgery and the Foreign Service. Military pay has also been linked until 1980. In addition, blue-collar workers, whose pay is set by the Federal Prevailing Rate Systems Act of 1972, have been capped at the white-collar pay increase since October 1978. The Federal Pay Comparability Act of 1970 was designed to provide an equitable and fair method for setting Federal pay by comparing rates to the private sector.

A 3-percent pay adjustment, to become effective January 1987, was part of the President's Fiscal Year 1987 budget message to Congress. The budget also contained a provision requiring employees to increase their contributions an additional 2 percent into the Civil Service Retirement System, thus reducing the pay increase. A mid-term review of the budget included a 2-percent pay adjustment for white-collar workers, effective January 1987, and 4 percent for the military, effective October 1986.

Congress, in passing a budget resolution earlier this year, also has provided for a 3-percent pay increase for white-collar workers effective January 1987. The Senate proposes a 4-percent pay increase for the military effective January 1987 and the House has approved a 3-percent raise for October 1986, with a conference committee to resolve the difference. Congress has not, however, raised the employee contribution into the Federal retirement program. Because of the need to reduce the deficit, Congress may now reconsider its earlier 3-percent action and again impose a freeze on pay and cost-of-living adjustments for Federal retirees. The Advisory Committee is issuing its report with full knowledge of these actions.

Pay Agent Report

This year's Pay Agent annual report states, "Under existing comparability law, the computation based on this year's survey indicates an upward adjustment in Federal pay rates varying by grade level from a low of 22.20 percent at GS-7 to 28.94 percent at GS-15. The overall average increase would be 23.79 percent."

These 1986 findings by the Pay Agent are significant for a number of reasons. First, these data represent the initial stage of a three-part planned expansion of the survey. The survey has been expanded to include establishments with 50 or more employees. In addition, the survey includes a new occupation, "General Clerk," at the GS-1 through GS-4 levels and "Purchasing Assistant," GS-3, was added. The scope of the survey has been expanded from 43,000 establishments to some 156,000, although those actually visited increased from 3,200 to 4,717. The survey was expanded because of criticism that the study did not reflect the entire economy. Suggestions for expanding the study came from a number of

sources, including the General Accounting Office, the Grace Commission, the Interagency Working Group established to advise the President's Cabinet Council on Management and Administration, and the Advisory Committee as well.

These findings further reinforce the contention that a significant gap in the pay between the private sector and Federal workers actually exists, even when small-sized establishments are included. According to the Pay Agent, had the survey not been expanded and the new occupations not been added, the gap would have been 23.89 percent. The size of the gap will be tested further over the next 2 years, when State and local employees' wages are included in 1987 and when the survey covers even smaller sized establishments, those employing 20 or more workers in 1988.

Table 1 presents an historical review of recommendations provided by the Pay Agent and the actual increases implemented. Table 2 presents the amount of increase shown by the Pay Agent to be required to achieve comparability with the private sector for selected grades over time. This gap is the result of the past 8 years' decisions not to implement the full comparability increase. Table 3 shows increases for several indexes over the past 9 years.

The Bureau of Labor Statistics' survey of pay increases for private sector occupations comparable to those found in the Federal Government indicates that from March 1985 to March 1986 increases ranged from 3 to 5.5 percent, depending on the occupation surveyed. For example, over the year, salaries of auditors increased 1.9 percent, secretaries' rates rose 5.6 percent, and attorney salaries showed the highest gain, 6.7 percent.

Events of the Past Year

Last year's Advisory Committee annual report to the President raised a series of questions:

> "What is the turnover rate and how does it vary by occupation, grade, location?"
>
> "Do people leave after having invested many years in the government, and, if so, to what extent?"
>
> "Who is the government attracting into its service and can the quality of applicants be determined and compared to the past?"

To some extent, these questions have been addressed in a report issued by the Congressional Budget Office, "Employee Turnover in the Federal Government," dated February 1986, and by testimony presented to Congress during hearings on various pay bills before it.

CBO Report. The Congressional Budget Office prepared a comprehensive review of turnover rates in the Federal Government. This study was prepared as a response to an Office of Personnel Management proposal that would link pay increases to the "quit rate;" that is, for occupations with low rates of quits, no increases, or only a portion of the annual adjustment, would be granted. For those high quit rate occupations, the full adjustment would be paid. CBO found that, "In 1984, about 195,000 full-time nonpostal federal workers with permanent appointments left federal jobs or transferred to other federal agencies--representing a turnover rate of 11.5 percent. . . . For full-time, federal, white-collar workers with permanent appointments, turnover stood at 12.3 percent in 1984 . . .." When the turnover rate is refined by the type of turnover, General Schedule workers quit at the rate of 4.9 percent, transfer at a 1.9 percent rate, retire at 2.4 percent, and leave for other reasons, including dismissal, death, layoffs, at the rate of 3.1 percent. The "quit" rates for private sector white-collar nonmanufacturing workers is placed at 10.9 percent compared to the Federal 4.9 percent. CBO explains the relatively low quit rate of the Federal work force by citing its hiring practices and patterns--the stability in the size of the Federal work force over the past decade and recent hiring freezes which limit the number of young entry level workers, as well as Federal policies that favor hiring veterans who generally enter the civilian work force at an older age. In addition, the Civil Service Retirement System severely penalizes workers who leave before age 62 and this acts as a deterrent to people quitting or retiring before becoming eligible for benefits.

Table 1. Chronology of General Schedule Salary Increases, January 1971 to January 1986

Date	Recommended by Agent-- Average	Recommended by Agent-- Range	Put into effect-- Average	Put into effect-- Range	Remarks
January 1971	5.96%	None	5.96%	None	Comparability measurement in effect at time called for no variation by grade.
January 1972	6.6	None	5.5	None	Economic Stabilization Act reduced increases below comparability.
October 1972	5.14	None	5.14	None	Strict comparability called for increases from 3.5 to 7.9 percent. Court overturned postponement to January 1973, proposed by President.
October 1973	4.77	4.55-5.25%	4.77	4.55-5.25%	Congress overrode alternative plan delay to December.
October 1974	5.52	5.46-5.59	5.52	5.46-5.59	Congress overrode alternative plan delay to January.
October 1975	8.66	None	5.0	None	Alternative plan not overridden.
October 1976	5.17	4.24-1/8.98	5.17	4.24-8.98	
October 1977	7.05	None	7.05	None	Strict comparability called for increases from 6.26 to 9.8 percent. Uniform percentage increase agreed to by Pay Agent and Federal Employees Pay Council.
October 1978	8.4	6.14-1/13.27	5.5	None	Alternative plan not overridden.
October 1979	10.38	8.8-1/15.43	7.0	7.0-2/9.89	Alternative plan not overridden.
October 1980	3/12.69	10.2-1/20.91	9.1	9.1-4/10.41	Alternative plan not overridden.
October 1981	15.1	12.08-1/23.33	4.8	None	Budget reconcilation provided increase.
October 1982	5/17.1	14.98-1/31.07	4.0	None	Alternative plan not overridden.
January 1984	21.5	17.82-1/36.25	4.0	None	President's alternative plan provided 3.5 percent; however, in April, Congress passed the Omnibus Budget Reconciliation Act of 1983, which provided for an additional .5 percent.
January 1985	18.3	17.01-21.66	3.5	None	Alternative pay plan not overridden.
January 1986	19.15	18.35-20.85	0	0	Alternative pay plan not overridden.

1/ Maximum increase permitted under existing ceiling.
2/ Increases in excess of 7 percent given only to Grades 1 and 2.
3/ 13.46 percent, assuming ceiling is raised.
4/ Increases in excess of 9.1 percent given only to Grades 1 and 2.
5/ 18.5 percent, assuming ceiling is raised.

NOTE: Historically, wages for blue-collar Appropriated Fund employees (450,000) have been based on 135 individual geographical wage surveys conducted by both union and agency representatives. For Nonappropriated Fund employees (170,000), surveys are conducted in 142 areas. Although surveys have been conducted, blue-collar workers have been subject to the same wage cap, by Congressional action, as white-collar workers, since October 1978. Where survey results show lower increases than the cap, the lower increases were implemented.

Prior to 1980, military pay was linked to white-collar increases. In October 1980, however, they received 11.7 percent and in October 1981, 14.3 percent. By October 1982, the link was re-established. In January 1985, however, the military received a 4-percent pay increase. In October 1985, the military received another 3 percent and the civilian work force pay was frozen at the January 1985 level until January 1987.

SOURCE: "A Decade of Federal White-Collar Pay Comparability, 1970-1980," and Advisory Committee on Federal Pay reports.

Table 2. Percent Increase of General Schedule Salary Scales Required for Comparability With Private Sector, 1/ Selected Grades and Dates

Date	GS-1	GS-5	GS-11	GS-15	Average, all grades
January--					
1971 ------	0	0	0	0	0
1972 ------	1.1	1.1	1.1	1.1	1.1
October--					
1972 ------	1.63 above	.81 above	.48	2.29	0
1973 ------	0	0	0	0	0
1974 ------	0	0	0	0	0
1975 ------	3.10	3.40	3.86	4.50	3.4
1976 ------	0	0	0	0	0
1977 ------	.03	.71 above	.38 above	2.80	0
1978 ------	.62	.86	2.53	7.37	2.7
1979 ------	0	1.73	2.52	7.9	3.1
1980 ------	0	2.1	2.9	10.8	3.3
1981 ------	7.56	6.95	8.98	17.68	9.8
1982 ------	12.9	11.88	11.51	26.03	13.9
1983 2/ ---	16.8	14.9	14.3	31.0	16.8
1984 3/ ---	13.47	13.05	13.84	17.55	14.28
1985 4/ ---	18.40	18.38	18.96	20.85	19.15
1986 5/ ---	24.17	22.47	22.84	28.94	23.79

1/ Based on Step 1 rates; comparability as computed by Pay Agent on the basis of BLS data for the private sector as of April of each year in which Federal pay increase was effective in October (as of preceding June in case of Federal increases effective in January). Gaps apply only to the year in which they are shown and are not cumulative.

2/ After a 4-percent across-the-board increase granted in January 1984 (not annualized).

3/ After January 1985 pay increase of 3.5 percent.

4/ Gap after no (January 1986) increase.

5/ Current gap.

SOURCE: Advisory Committee on Federal Pay's report, "A Decade of Federal White-Collar Pay Comparability, 1970-80," updated from Pay Agent's annual reports.

Table 3. Wage and Consumer Price Index Increases, 1978-86

	1978	1979	1980	1981	1982	1983	1984	1985	1986
	(March to March changes, in percent)								
PATC Survey	7.9	7.8	9.1	9-11	9-10	7.1	3-6	3-6	3-5.5
Employment Cost Index									
Private nonfarm--									
Wages and benefits 1/	NA	NA	NA	10.7	2/7.8	6.4	5.7	4.4	3.8
Wages and salaries only	7.5	7.8	9.1	9.3	8.1	5.4	5.0	4.1	3.9
White-collar workers--									
Wages and benefits 1/	NA	NA	NA	10.8	6.5	6.6	6.3	4.9	4.3
Wages and salaries only	7.1	7.3	9.2	9.3	8.3	5.6	5.6	4.6	4.4
CPI urgan wage earners and clerical workers	5.6	10.3	14.6	10.5	6.5	3.7	3.5	3.3	1.9
Pay increases granted Federal white-collar workers	5.5	7.0	9.1	4.8	4.0	3/	4/4.0	4/3.5	5/

1/ First published in 1979.

2/ Reflects a deceleration in compensation costs and wage increases that began in 1981.

3/ A 4-percent pay increase was effective in January 1984, 3 months after the October date. On an annualized basis, this represents a 3-percent pay increase.

4/ Increases granted in January.

5/ No increase between January 1985 and January 1987.

CBO also attempted to determine the quality of employees who leave, acknowledging that scant research had been done because of the difficulty in measurement and data gathering. In order to provide one general indicator, CBO looked at the approximately 120,000 employees in Grades 13-15 under merit pay. It found that highly rated employees had below average turnover while those with below average performance left voluntarily at a higher rate.

A Department of Defense study was also cited by CBO, which showed that the loss of superior engineers and scientists, measured by SAT scores, was a problem, however.

Congressional Hearings. During 1986, a great deal of attention has turned to the Federal Government's difficulty in recruiting and retaining qualified people. Lagging Federal pay compared to the private sector's rates has prompted both the Senate Subcommittee on Civil Service, Post Office and General Services and the House Subcommittee on Compensation and Employees Benefits to hold hearings on several bills that would establish special compensation systems for specific groups of Federal workers or provide other approaches to the pay setting process for the entire work force. Representatives of employee organizations and those of Federal agencies have highlighted the recruitment and retention problems before the Senate and House Committees.

As an example of the problems, the National Aeronautics and Space Administration stated: "Despite our best efforts, more than 40 percent of our employment offers to freshouts [fresh out of college] were declined in FY 1985. At our Ames Research Center in California, for instance, 55 percent of the offers were declined. . . . Although we have been unable to quantify the exact number, we firmly believe that only by adding the 'no longer interested' responses to the 40 percent declination rate can one begin to realize the serious nature of the problem." As an example of its inability to retain key employees, NASA's Personnel Director stated, "Between FY 1983 and FY 1985, NASA scientist and engineer losses for reasons other than retirement increased from 294 to 361 employees. Most of our separations occurred at the GS-13 grade level and above and represent the loss of fully trained, experienced personnel. Of the 361 losses, nearly 25 percent indicated their resignation was due to a higher paying outside position."

The National Institutes of Health presented turnover information showing that "In 1985, the turnover rate for critical care therapists was 55 percent; for nuclear medicine technologists, 37 percent; and for pharmacists, 37 percent."

Testimony by the Internal Revenue Service traced the decrease in the number of honors applicants over the years and included the statement, ". . . we may no longer be able to convince attorneys to forego a beginning salary 42 percent greater than what we can pay in return for the experience we provide."

David Packard, Chairman of the Board, Hewlett-Packard Company, and a former Deputy Secretary of Defense and Chairman of the President's Commission on Defense Management, noted before the House Subcommittee that "The pay disparity between government and industry began to grow with the last cycle of inflation, when increases in federal salaries failed to keep pace. The problem is particularly acute in the scientific and engineering field, where industrial pay scales have risen faster than the rest. Congress has made the problem worse by insisting on linking congressional and civil service pay. . . . Not only are federal salaries noncompetitive, but fringe benefits are eroding as well. Although the federal pension plan is still relatively generous, it has been affected by recent budget cuts and is often matched or exceeded in the private sector. Federal health and life insurance provisions and annual and sick leave allowances are far less generous than those offered by many private companies and universities."

Advisory Committee Statements. The Advisory Committee on Federal Pay was also asked to appear before the Senate and House Subcommittees to discuss pending bills and the general pay problem. During these proceedings, the Advisory Committee offered suggestions for changing the current system. The Committee said it would be desirable to split the General Schedule and pay local labor rates for those jobs recruited in a specific geographic location; institute a system of paying a range of increases by grade; and recognize that benefits represent at least one-third of compensation and, thus, comparability should be based on both pay and benefits.

Each of these concepts requires some explanation. For example, in splitting the General Schedule, professional employees and others hired on a national basis would be maintained under the current General Schedule system. For those hired

in a local labor market, pay would be based on either a survey of local rates or a special add-on based on the Cost of Living Index could be tied to the rate.

For all of the 14 years that the Federal Pay Comparability Act has operated, pay increases have been across-the-board adjustments. Yet strict comparability has called for increases to vary by grade where the private sector data indicate variations in pay adjustments are warranted. Although this has not been done, it was provided for by the Act. If the government's policy is to adhere to the private sector pay practices, then ranges would be entirely consistent.

Total compensation comparability has been discussed as a principle in recognizing that benefits are an important component of the compensation package. This is particularly important now that one of the most costly benefit components of compensation--the pension program--has been changed. Employees hired since January 1984 are under a new retirement system that promotes mobility with its three-tiered approach: Social Security, a supplemental pension plan, and a thrift program. When Congress enacted this new system in 1986 it broke with the former policy of locking employees in with "golden handcuffs," which, in effect, became a tradeoff for lower pay. As those under the old plan retire/leave or join the new system, the tradeoff of pensions for pay will be lost and a compensation package more in line with the private sector will be needed. This more integrated total compensation comparability system should now be developed.

Both the testimony provided by the various agencies before Congress and the CBO study contribute to our understanding of the pay problems but the information is still incomplete. Importantly, we need to know how costly not matching private sector levels of pay really is, not only for isolated occupations or agencies but for the entire government. As a follow-up to the CBO study, the Advisory Committee sent a letter to the CBO Director asking him for such a cost estimate. Rudolph Penner's letter stated in part, "Unfortunately, data on turnover costs are very limited, and it would be impossible to obtain the information necessary to calculate government-wide costs." The Advisory Committee remains hopeful that an independent study will be funded to look carefully at these questions.

Pay Bills and Innovations

During the past year, several bills have been introduced into Congress to change the current pay system. Some have addressed problems of recruiting and retaining specific occupations--engineers and scientists, procurement specialists, and others. For example, under one proposal, the 1,600 white-collar workers at the National Bureau of Standards would come under a demonstration project that combines the merit pay, bonuses, and the pay bands under China Lake with comparability. (China Lake is the shorthand designation for a Navy demonstration project, begun in 1980 and extends to 1990, at two locations, China Lake and San Diego, California. The experiment involves compressing the 18-grade structure into 4 or 5, which eliminates classification; permits hiring at market rates; and bases movement through the range on performance.)

Under another bill, the Secretary of Defense would have the ability to establish more flexible personnel systems for intelligence agencies. This authority includes making appointments and fixing pay as is done in the CIA and National Security Agency. Another bill would permit an alternative pay system for scientific, technical, and procurement personnel with the Department of Defense. Still other bills are broader in scope and either seek to implement the China Lake demonstration program government-wide or provide for additional types of demonstration projects. Although these bills require Congressional passage, a number of pay experiments are now taking place or will be initiated soon.

For example, the National Treasury Employees Union and the Internal Revenue Service have agreed to develop an incentive pay system for data entry personnel at the ten IRS Service Centers where tax returns are processed. They are preparing to evaluate the program now that the 1986 tax season has ended. The production standards are established by a joint union management committee at the ten locations. Under the program, employees can receive 50 percent of the savings realized for production above the standards. While the experiment is limited to data entry work because it is the easiest to measure, the NTEU and IRS expect to extend the system to other employees as well.

The American Federation of Government Employees reports that they and the Department of Defense have agreed to another form of payment. A new demonstration project at McClellan Air Force Base will be tested next year among some

2,000 employees who are primarily blue-collar workers. Under this project, termed gainsharing, workers will be rewarded for organizational performance. When productivity exceeds 100 percent, 50 percent of the savings will go to the Air Force and the remaining half will be split among the employees, 45 percent, with 5 percent set aside for quality of life items such as child care, cafeteria improvements, and other needs. Unlike the IRS pay-out system, however, this program rewards group productivity. In addition to this project, AFGE will begin a test of locality pay at an Army installation in Warren, Michigan.

Although the Advisory Committee believes that experimentation and demonstration projects are desirable on a controlled basis, it now appears that a balkanization of the General Schedule may start and the problems of internal pay equity within the system should be raised and addressed. While every occupational group within the government can claim unique recruitment and retention problems, the question is, "Should these problems be resolved on a piecemeal basis?" The Advisory Committee believes that an overall policy of comparability for all employees is appropriate.

Advisory Committee's 1986 Recommendations

The Advisory Committee acknowledges the Pay Agent's findings that a 23.79 percent pay increase is needed to close the gap; however, it recognizes that such a pay increase will not be implemented in 1986. It has been the Advisory Committee's policy in recent years to recommend that the Employment Cost Index be used as an interim measure while the BLS PATC survey is expanded over the 3-year period. A number of groups appearing before the Advisory Committee also have supported the use of the ECI as an appropriate mechanism for adjusting pay, if not on a permanent basis, then temporarily.

During the June 1985 to June 1986 period, wage and salary increases for white-collar workers, excluding sales, rose 4.2 percent. This increase, as measured by the Employment Cost Index, shows that wage gains are rising at a decelerating rate, following the Consumer Price Index.

Although the Employment Cost Index is an accurate measure of wage change throughout the economy and within the private sector white-collar work force, the Committee believes it is appropriate to recommend that one of its own findings be implemented, that is, increases should be in a range similar to that found in the private sector. This recommendation is included in the Advisory Committee's special spring 1985 report to the President and restated in its testimony before Congress in April 1986.

In adopting this principle, the Committee recommends that the average increase should be 4 percent but that it range from 3 percent up to 5 percent for Grades 13 and above and that the adjustment be effective October 1986. We believe that this adjustment is fair and in keeping with the Federal pay comparability principle.

Conclusions

The proliferation of bills to remedy the recruiting and retention problems faced by agencies, the testimony presented before the Congressional Committees, and the statements made by union and association representatives before this Advisory Committee on August 25 (see Appendix A for summaries of their statements) indicate the severity of the compensation problems facing the Federal Government.

Currently, the Federal deficit is an overriding consideration. The Administration and Congress are faced with difficult decisions about program priorities and the 1987 fiscal year budget will reflect reduced spending throughout government. Yet, Senator Phil Gramm, one of the authors of the Gramm-Rudman-Hollings Deficit Reduction Act, stated in a January 7, 1986 article, "I favor a full 4 percent increase in pay for federal workers and military personnel because a quality uniformed and civil service is one of America's greatest assets. Costs should be controlled by reducing the size of the federal work force, not by freezing pay and losing our best people."

The Advisory Committee believes there is a compelling need for the Nation to reestablish its basic commitment to the comparability principle, that is, paying the "average" rate found in the private sector, not the highest or the lowest, but at least the average.

Equally important, however, is the need to rekindle the spirit of public service to our country along with the reaffirmation that working for the government benefits the public. The Committee believes this must be stressed and reignited within the Federal work force and throughout the Nation. Pride in doing a job well and in serving the country enhances the government's reputation as an employer, which, in turn, attracts qualified candidates. People want to work for an excellent enterprise, and the government should seek that excellence.

APPENDIX A

Summary of Oral and Written Statements by Representatives of Unions and Employee Organizations

The following summarizes the statements presented to the Advisory Committee on Federal Pay at its August 25 meeting:

Senior Executives Association. The lack of comparability led the last Quadrennial Pay Commission to characterize the problem as "The Quiet Crisis." In the 1984 Hay study, cash compensation of the average of 40 ES-6 positions studied that were comparable to their private sector counterparts lagged by 72 percent. SEA recommends that there be an objective method for making periodic compensation surveys, such as the Hay study. Secondly, in the absence of the SES compensation survey, the percentage pay adjustment for SES should equal that for the GS-15 level. After the special survey has been conducted, the needed adjustment should be phased in over a 2-year period.

National Association of Government Employees (affiliated with the Service Employees International Union). Government agencies are experiencing great problems in recruiting and retaining key personnel, which reduces government productivity and performance levels. "These problems are directly attributable to the inadequate pay levels provided federal workers at all grades." NAGE cited specific difficulties in hiring and retaining electronic technicians and engineers and noted that the problems are not confined to these occupations alone. A number of bills have been introduced into Congress to resolve pay problems for all or part of the work force. According to NAGE, pay reform is needed for all employees and they urge the Advisory Committee to recommend an increase comparable to that granted in the private sector plus an additional amount to make up part of the pay gap.

Naval Civilian Administrators Association. During the past 4 to 8 years, much legislation has been proposed which would adversely affect Civil Service employees. The majority of the legislation was defeated; however, this is one of the major reasons that "morale of federal workers is at an all time low." Salaries for Federal Government engineers are substantially below the industry mean, as measured by the Bureau of Labor Statistics. In addition, benefits provided by the private sector—autos, first class travel, meals, day-care, discounts on products and services, memberships in clubs and health spas—do not exist for Federal workers.

National Federation of Federal Employees. As a result of the alternative pay plan in 9 out of the last 10 years, the pay gap continues to grow and is now 23.79 percent, despite expansion of the survey to establishments with 50 or more employees. This expansion has delayed even further the publication of the comparability results. When we finally received the information late on August 15, it provided little detail on how the results were derived and, further, we were asked to respond by August 20. Apparently decisions already have been made without the PATC results or input from employee organizations. Based on reports we've read, the President has already determined that a pay increase of 2 percent will be made; Congressional action taken to date indicates a 3-percent increase is likely. The problems agencies are having in recruiting and retaining has prompted a proliferation of bills to address specific and general agency needs. A better approach is one that is comprehensive, such as that provided in HR 4738, introduced by Representative Oakar (D-Ohio). Under any system, however, the comparability gap should be closed and increases should parallel the Employment Cost Index. Since no increase was granted in FY 1986, the adjustment for FY 1987 should be 9.2 percent.

American Federation of Government Employees and the Public Employees Department, AFL-CIO. The addition of smaller sized establishments had a negligible effect on the overall increase, 23.79 percent. As a result of recruiting and retention problems, Congress has introduced a number of bills,

none of which would be necessary if past Presidents and Congress "had not manipulated Federal pay for political and budgeting purposes." The Oakar bill, HR 4738, provides for testing of pay systems, including total compensation comparability, locality pay, collective bargaining, pay for performance, and a combination of systems. In addition, it limits the alternative pay option to mandatory wage-price controls and liberalizes special rates.

National Treasury Employees Union. NTEU states that it supports the principle of pay comparability as a way to provide a fair and equitable method to attract and retain the skilled employees the government requires. During the past years, however, alternative pay plans have been used and the pay gap of 23.79 percent is likely to grow only wider. Although the Pay Agent has manipulated the data--by using medians instead of averages, weighted averages, included new industries and occupations and smaller establishment sizes--the substantial gap remains, although it is falsely depressed by these revisions. Because of the failure of the present system, the lack of participation by employee representatives, the NTEU believes that collective bargaining for pay and other benefits is the best way to achieve a viable and equitable pay-setting process for Federal employees.

Non Commissioned Officers Association of the United States of America. Public Law 90-207 created the military-Federal pay adjustment linkage, which has been superseded in the past few years by other public statutes. Even with the 4-percent pay increase recommended by the Administration, this will be the fifth year the compression in pay problem of non commissioned and petty officers (NCOs/POs), particularly grade 4-7, has not been addressed. A Congressional Budget Office June 1986 report recognized the problem. NCOA recommends that an 8.3-percent increase in pay and basic allowances be granted to all uniformed servicemen in October 1986, except for those in pay grades E-1 through E-3. Money saved should be targeted for alleviating the compression.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America. "The Teamsters position is that there is a principle of comparable pay written into federal law. That principle calls for 24% now--and the Teamsters think that federal workers ought to get it now. You can get to comparability by 24% now, or by 11%-10%-9% over three years." Current proposals to expand "China Lake," give incentive pay, and the call for locality pay all would destroy the Federal Civil Service System. Rather, full fledged collective bargaining is required with compulsory arbitration.

Federal Managers Association. While there was a tradeoff of better retirement benefits for pay, this is no longer true because the gap is too large. Promises have been broken, for instance, tax conferees agreed to retroactively change the way annuities for Federal employees are taxed. Since 1970, the purchasing power of Federal workers has been cut by one-third, while private sector wages have kept pace with inflation. FMA recommends an 8-percent increase for supervisors and managers to make up for the wider gap at that level.

Association of Scientists and Engineers of the Naval Sea Systems Command. "Job content, level of responsibility and even patriotism have served us well in the past. However, the erosion of pay raises and benefits in recent years, so widely publicized, is taking its toll." This situation means loss of senior qualified people and difficulty in recruiting new engineering graduates. We support the 3 percent as a minimal amount and that it apply to special rates.

Classification and Compensation Society. The abandonment of the comparability principle has led to shortages in various occupations and bills before Congress from agencies and professional groups seeking exclusion from the current system. "If agencies and occupations are permitted to have an open competition for federal salary dollars with one another, we could be back to the chaotic pay situation the government reformed in 1923 with the first Classification Act." CCS supports the expanded survey to the public sector and smaller entities and encourages greater worker participation. Additionally, occupationally measured pay, adjusted for differences in benefits and other cash compensation, differentiated by location and, in some cases by broad occupational category, is the only reasonable way to compare Federal and nonfederal compensation. Finally, since the process has become intuitive, a 5-percent increase is recommended.

Association of Federal Employees. The gap is not in pay alone but in the benefit package as well. Some of the benefits provided in the private sector include: paid educational leave, association dues, and free child care. There is a need to implement a fair mechanism to set total Federal compensation.

"Help us counteract those in power who wish to decimate the Federal work force by early-outs, hiring freezes, and attrition created by disincentives. ... Can we make 1987 the first year in a long time without a 'national emergency' that affects only Federal workers while all others enjoy prosperity?"

The following represents summarized comments submitted in writing to the Committee:

Association of Government Accountants. Because the comparability pay setting process has been a dismal failure, it is time for reform. AGA supports provisions of the Oakar bill (HR 4738), which would limit the use of alternative plans to national emergencies or mandatory wages and price controls. Further, the Pay Agent's findings need to be available much sooner to be considered during the budget debate. The ECI (Employment Cost Index) should be used as a substitute for the PATC survey as an indicator in year-to-year change.

Federal Executive and Professional Association. The following concepts, not now met by the present Federal compensation system, should be adopted: (1) total compensation for professionals and executives should be comparable to similar occupations in the private sector; (2) adjustments should be reliable and timely; (3) compensation should provide incentives to qualified persons to seek these positions; and (4) compensation should be national in scope.

Patent Office Professional Association. The Federal Government has become a training ground for the private sector. Those who have selected the government as a career are captured by the system and more are considering retirement or just leaving. While the only acceptable alternative to comparability is collective bargaining with arbitration to resolve impasses, this is unlikely to happen. We suggest that the Advisory Committee study the effects of the pay gap on recruitment, retention, training costs, and overall morale.

Federal Employee. Helen Bonaceto, Norwood, Massachusetts, "I wish to go on record for the Committee hearing on federal pay. . . . In my opinion the lack of parity in Govt. salaries and private sector salaries is now resulting in a drain away from the Govt. of dedicated, professional workers. . . . Many of my co-workers have resorted to second jobs in order to make ends meet. Perhaps a regional pay scale may be in order. . . . I know if I were entering the job market today I would not choose Govt. Service."

Federal Employee. David M. Flynn, Sacramento, California, "I am a GS-7/4 earning $19,606 per year and have a very difficult time making ends meet. . . . Comparable wages in State and County government here, men and women doing similar work as I, are a lot more than what I make and we, the USGS, are losing people who leave to make more money. . . . We all welcome a pay raise, but 3%? It just doesn't cut it."

APPENDIX B

ORGANIZATIONS DISCUSSING THE PRESIDENT'S PAY AGENT REPORT
WITH THE ADVISORY COMMITTEE ON FEDERAL PAY

Federal Employees Pay Council

American Federation of Government Employees--
John Mullholland, Director
Peter Tchirkow, Statistician
Field Services Department

National Federation of Federal Employees--
Patricia Thomas, Legislative Director

National Treasury Employees Union--
Dennis Reardon, Director of Training and Development

Other Employee Organizations

Association of Federal Employees--
Peter Fischer, Chairman, External Liaison Committee

Association of Scientists and Engineers of the Naval Sea Systems Command--
Matthew T. Reynolds, President
Jeff Hough, Legislative Chairman

Classification and Compensation Society--
Paul Krumsiek, President

Federal Managers Association--
David Sanasack, Executive Director
Catherine Ball, Legislative Counsel

National Association of Government Employees--
Edward Murphy, General Counsel

Naval Civilian Administrators Association--
Jack T. Day, National Executive Secretary

Non Commissioned Officers Association of the United States--
C. A. McKinney, Legislative Counsel

International Brotherhood of Teamsters--
Hal Gray Lewis, Assistant Director, Education Department

Senior Executives Association--
Richard Strombotne, Member of the Board of Directors

Mr. DUGGAN. Thank you.

Senator DECONCINI. Mr. Duggan, indeed you are a small agency, but I have a tough question to ask you. The President is going to make recommendations regarding Federal pay raises—it appears—and schedules based in large part on what OMB wants to do with his budget and what OMB thinks about the need for reform. Perhaps I am wrong, but that is my observation.

And I say this as no criticism to your work, but what services can your small agency provide the President that he does not already get from his budget people and personnel experts of other agencies?

Mr. DUGGAN. Well, I think that we have our finger on the pulse of the general public, the ultimate employers of the Federal work force as well. I am talking about the taxpayers. We think that we are in more direct touch with Members of Congress and the work force, possibly, than OMB is.

Senator DECONCINI. You are more in touch as far as I am concerned.

Mr. DUGGAN. I beg your pardon?

Senator DECONCINI. You are more in touch, I think, as far as I am concerned.

Mr. DUGGAN. Well—and you can check us out on that—when I was invited to serve as Chairman of this committee I was under no delusions as it being a powerful influence upon anybody here in Washington. But the committee was created by Congress in an effort to represent all interested parties. I like to think that we have done a responsible and reasonable job of making recommendations to the President.

As a for instance, last year we recommended that an increase on average of 4 percent be granted to Federal employees—a range from 3 to 5 in different grades. You may recall that in the alternative pay proposal the President called for a 2-percent increase. Subsequently, after our report was issued, and with reference to the report, the Congress raised the ante from 2 to 3.

Senator DECONCINI. Yes.

Mr. DUGGAN. We like to think that we had some influence there. Now, you understand that there exists a so-called comparability pay gap which is in double-digit figures, like 23.9 percent. There is always dispute among all of the parties involved—I am talking now about the pay agent, made up of OMB, OPM, and the Labor Department—as to the validity of those figures.

We try too to reconcile some of the differences of opinion. Our procedure is that taking the pay agent's report, we make an independent recommendation to the President. Now clearly, a 3- to 5-percent increase, or an average of 4 was nowhere near the 23.79-pay gap announced by the pay agent, but not with their heart in it. So I am not suggesting to you, Senator, that we are attempting to do anything other than fulfill an obligation we have undertaken as members of this committee under law established by the Congress, not by ourselves.

COMMITTEE'S RECOMMENDATIONS TO QUAD COMMISSION

Senator DECONCINI. Though your committee on Federal pay is responsible for advising the President, your focus seems to be with regular Federal workers, merit pay studies, and the like. Am I correct in assuming that you played some role in the recent Quadrennial Commission Study on Executive, Legislative, and Judicial Salaries?

Mr. DUGGAN. Not in the most recent one, sir.

Senator DECONCINI. You did not?

Mr. DUGGAN. No; but I was invited to testify before the predecessor committee and I did so. Oh, I beg your pardon. We were invited to submit comments to them, and we did. But I did not appear personally. I did send them recommendations.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. OK, very good. Thank you, Mr. Duggan. I have no further questions, but will you please respond to Senator Domenici's questions for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Question. What are the prospects for pay reform in this session of Congress and, in view of the wide range of opinions on how to fix the system, what reform looks like the most promising to fix the problem?

Answer. Over the past 3 to 5 years, Congress has devoted most of its attention to developing a new retirement system for Federal employees. Now that this new system is in place, increased attention is beginning to turn to Federal pay matters. By most measures, Federal pay has lagged over the 1970–86 period; in this period, Federal white-collar salary increased 120 percent, the consumer price index 180 percent, military pay 167 percent, and BLS private sector white-collar pay 159 percent. This gap is creating problems in recruiting and retaining for specific occupations, such as engineers and scientists, and, now, even clerical workers. With the new changed pension system, which is more portable and free of the backloading golden handcuffs design of the old system, salaries must be competitive to retain valued workers and not merely serve as a training ground for private industry.

The Advisory Committee on Federal Pay sincerely hopes that Congress acts this session to enact a comprehensive law that corrects the problems found systemwide. The Government is moving toward a locality pay system for employees hired in local labor markets. In February, OPM sent a letter to agencies having clerical workers in the Washington, DC, metropolitan area, asking them if they want to join in a special rate program beginning in mid-fiscal 1987. Currently, 55,000 workers—primarily engineers and health care professionals—are under the program, but clerical workers in some areas are also. With all clericals in GS-2/7 potentially eligible in the Washington, DC, area, another 42,000 will be added to the rolls.

Rather than an ad hoc placement of 1.4 million white-collar workers on special rates, an overall plan to correct the problems requires immediate attention. We have spoken in opposition to piecemeal plans to correct the recruiting and retention problem and placing individual occupations into separate pay programs, as advocated by a number of bills in the last session. Despite their good intentions, we believe that a fragmented General Schedule system, unraveled for one or few occupations, would soon become balkanized for the some 400 occupations in the white-collar classification system.

The Advisory Committee would like to see a demonstration project to test true locality pay and Washington, DC, appears to be ready for that experiment. The test should be carefully monitored so that whatever problems or approaches tried here also

can be used nationwide. The experiment should be conducted with the intention of adopting it throughout the system. We believe that a coordinated and nationwide approach is necessary to maintain equitable pay practices. We have also recommended that total compensation comparability be used as a Federal pay practice. This review of pay as well as benefits would be an important step in adopting a private sector practice.

Question. We have not seen any detailed breakdown or justifications for your fiscal 1988 budget request of $206,000, so could you tell the subcommittee exactly what this small amount of money will be sued for in fiscal year 1988 and how it compares to last year?

Answer. The Advisory Committee on Federal Pay is requesting $206,000 for fiscal year 1988, which represents a $5,000 or 2.4-percent increase from last year's budget.

The Committee, because of its small size, anticipates about two-thirds of the budget will be allocated for staff salaries and benefits; the next largest expenditure is for rent to GSA, followed by payment to GSA for providing us with basic personnel, budget, and other support services. In addition, the committee has been frugal in the past and returned an unspent portion of its budget. These proportions of the budget have remained consistent over the years.

Question. Biennial budget cycle.

Answer. The Advsiory Committee on Federal Pay favors a biennial budget process, which would help in longer range planning. While there may be unforeseen changes in program or payroll expenditures, a 2-year budget would make longer term plans and commitments possible. For the unexpected changes, provisions could be made to resubmit a modified budget if expenditures are likely to exceed the original appropriated amount by more than, for example, 1 percent.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

STATEMENT OF FRANK GEARDE, JR., CHAIRMAN

ACCOMPANIED BY CHARLES W. FLETCHER, EXECUTIVE DIRECTOR

INTRODUCTION OF ASSOCIATE

Senator DECONCINI. Mr. Frank Gearde, Chairman of the Committee for Purchase From the Blind and Other Severely Handicapped will be our next witness.

Gentlemen, welcome.

Mr. GEARDE. Thank you, Mr. Chairman.

Senator DECONCINI. Would you please introduce your colleague here.

Mr. GEARDE. With me today is Charles W. Fletcher, Executive Director of the committee.

During fiscal year 1986 the committee continued its progress in expanding the benefits of the Javits-Wagner-O'Day Act to increasing numbers of the blind and other severely handicapped. Details of our progress are contained in our prepared statement.

In fiscal year 1986 nearly 16,500 blind and other severely handicapped workers were employed under the committee's program. In January 1984 the committee approved the addition of seven military medals and medal sets to the procurement list for production by a severely handicapped workshop. One of the former suppliers of some of the medals sued the committee in a Federal district court to have the committee's decision overturned.

Although the district court upheld the committee's action, when the case was appealed the appeals court directed that the committee's decision be set aside due to a technicality relating to the adequacy of the notice the committee had published in the Federal Register announcing its decision.

Based on its having prevailed in this case, the plaintiff filed for attorneys fees and legal expense in an amount of over $273,000. In December 1986 an agreement was reached on the payment of $100,000 to settle the claim. This amount has been paid and is reflected in the other services paid for fiscal year 1987.

This has resulted in the curtailment of many of the committee's activities during this year in order to stay within its appropriations for fiscal year 1987. The committee's appropriation for fiscal year 1987 was for $778,000. Our appropriation request for fiscal year 1988 is for $825,000, an increase of $47,000. The largest increases are in personnel

costs and fringe benefits as a result of the new Federal employment retirement and in standard level user charges.

Our budget request for fiscal year 1988 represents an austere level of funding for the committee in carrying out its responsibilities for expanding employment opportunities for the Nation's blind and other severely handicapped.

PREPARED STATEMENT

Senator DECONCINI. Thank you. Your full statement will appear in the record.

[The statement follows:]

STATEMENT OF FRANK GEARDE, JR.

Mr. Chairman, we are pleased to appear here today to present the appropriations request of the Committee for Purchase From the Blind and Other Severely Handicapped for fiscal year 1988.

This committee was created by the Javits-Wagner-O'Day Act (Public Law 92–28) in 1971. The committee is the successor to the Committee on Purchases of Blind-Made Products established by the Wagner-O'Day Act of 1938. Its purpose is to increase employment opportunities for blind and other severely handicapped, and whenever possible, to prepare these individuals to engage in normal competitive employment. The committee's primary means for achieving its objective is to direct the Government's procurement of selected commodities and services to qualified workshops serving the blind and other severely handicapped persons.

Under the act, the committee has the responsibility for determing which products and services the Federal Government buys are suitable for provision by qualified workshops serving the blind and other severely handicapped. The committee establishes the prices which the Government must pay for those commodities and services.

The Committee has a full-time staff of 12 persons to assist in the implementation of the program. The staff is responsible for developing recommendations and proposals for the consideration of the committee. Operationally, it supervises the selection and assignment of new commodities and services; assists in establishing the fair market price and reviewing price changes; verifies the qualifications and monitors the performance of workshops; and serves as a vital link between the workshops and the Federal Government in expanding the program and resolving production problems. In addition, the staff handles all of the administrative functions for the committee such as developing policies and procedures, initiating and responding to correspondence, preparing the committee's budget, and performing all of the functions required of an independent Government agency.

During fiscal year 1986, the committee continued its progress in expanding the benefits of the Javits-Wagner-O'Day Act to increasing numbers of blind and other severely handicapped individuals.

Workshop sales to the Federal Government under the committee's program during fiscal year 1986 were about $272 million. In addition, sales through the military resale program were $16 million, for a total of about $288 million under this program. This represents an increase of $20 million over the total workshop sales of $268 million in fiscal year 1985.

Blind workshop sales, including those through the military resale program, increased from $172 million in fiscal year 1985 to over $177 million in the past year.

Government sales by other severely handicapped workshops under this program were $111 million, an increase of $15 million over fiscal year 1985.

During the past year, the committee approved the addition of 32 commodities and 30 services to the procurement list with a total annual value of $36 million. These additions created new jobs for over 750 blind and other severely handicapped individuals.

As of September 30, 1986, there were 319 blind and other severely handicapped workshops authorized to produce products or provide services for the Federal Govern-

ment under the committee's program, a net increase of only 1 workshop over the year before. Although 20 new workshops entered the program, there were 19 workshops which dropped out.

The committee staff made 164 inspections of workshops in fiscal year 1986 to ensure their compliance with the act and the committee's regulations and to resolve production problems in producing commodities or providing services under the act. Our appropriations request for fiscal year 1988 will enable us to inspect at least 165 workshops in that year.

Our appropriation request for fiscal year 1988 is for $825,000. This is an increase of $47,000 over the appropriation for fiscal year 1987. The largest increases are in the pay of personnel, fringe benfits, and standard level user charges.

The committee's budget request for fiscal year 1988 would provide the resources the committee requires in carrying out its responsibilities for expanding employment opportunities for the blind and other severely handicapped of this Nation.

SPENDING INCREASES

Mr. GEARDE. Thank you, Mr. Chairman. We will be happy to answer any questions on the details of our budget and any other information that we have submitted.

Senator DECONCINI. Thank you. You are a small agency and we appreciate the work you do there with the limited funds. But I see you are asking for some rather significant increases in some areas—travel, 37.5 percent; printing and reproduction, 84 percent; and personnel, 48 percent. Can you explain why you need these large percentage jumps when your staff remains fixed at only 12 positions?

Mr. FLETCHER. Taking up travel, for example, as the first one. Basically, during this past year to stay within the limitations of Gramm-Rudman we reduced the amount of travel substantially.

Senator DECONCINI. You are talking about 1987?

Mr. FLETCHER. In fiscal year 1987 we are projecting a severe reduction in travel. That is one of the areas in which we have had to reduce funds to make up for the $100,000 that we lost.

Senator DECONCINI. I see.

Mr. FLETCHER. That is one of the few areas that we have flexibility in being able to spend or not. Our personnel costs, the rent, the operation of the reproduction machinery, and those sorts of things are basicaily fixed costs which we have to pay irrespective of the level of work——

Senator DECONCINI. So, are you telling me that the travel, printing, and the reproduction are catching up with Gramm-Rudman?

Mr. FLETCHER. In 1986 they were catching up with Gramm-Rudman. In 1987 they were to make up for the $100,000 in the attorneys fees and legal costs which we were required to pay to the person who sued us.

Senator DECONCINI. No; these increases I mention are over 1987.

Mr. FLETCHER. That is right, over 1987. Our original 1987 budget showed only modest increases like $2,000 or $3,000. But I have had to reduce these object classes to make up for that $100,000 that I had to pay out of my budget.

Senator DECONCINI. Yes; so really this is kind of catching up with Gramm-Rudman, but you did not catch up with it in 1987 did you? Because you only went up a few thousand dollars.

Mr. FLETCHER. The total budget in 1987 was $778,000. But $100,000 of that was put in other services, which has gone up in 1987. And I had to find the funds from other sources, and one of the major sources was in printing—in that class is the printing of the Procurement List Catalog which we normally publish each year and send to procuring activities throughout the world and which is their primary source of knowing what to buy from us—we are unable to print that this year.

With respect to travel, instead of inspecting 165 to 170 workshops, we expect to inspect only about 125 to 135 workshops in 1987. Those were areas where we had to reduce, and the budget that you see for 1987 reflects that $100,000 cut in various activities to cover the legal costs.

Senator DECONCINI. OK. The committee is consistently told that if we add more staff to IRS, for example, we can reap more revenues. Other agencies make similar claims. There are certain groups who have contacted me and who are interested in additional staff for your committee to help provide more employment opportunities for persons with severe disabilities.

If this committee were to provide you with say an additional $25,000 or $50,000 for more staff, what effects would that increase have on providing more opportunities for the severely handicapped, and particularly those with developmental disabilities? Can you give us an answer? If not now, maybe you would like to submit it to us.

Mr. FLETCHER. I can give you a general answer. The last time the committee was authorized an increase in staff was in fiscal year 1979. In that year sales by the workshops to the Government were about $92 million. In fiscal year 1986 they had sales of $288 million. So sales went from $92 million to $288 million, and the number of items on the procurement list has nearly doubled during that time.

Senator DECONCINI. So you are telling me that there would be a direct increase, you believe, if an additional staff person were provided?

Mr. FLETCHER. We would be able to do many things we are unable to do now. We would be able to process actions more promptly and we would be able to better serve the workshops. And I believe that we could meet the needs of the blind and the handicapped better. Twenty-five thousand dollars would enable me to add one person to the staff.

Senator DECONCINI. Would you, Mr. Chairman, give us the breakdown as to who you would add; what kind of a staff person, if you had $25,000; what kinds of staff persons if you had $50,000; and what you think would be the results. I realize there is no way to know that, but base it on what you have told us here. Can you provide that for us, along with a response to Senator Domenici's questions for the record?

Mr. GEARDE. We would be happy to do that.

[The information follows:]

ADDITIONAL FUNDING

With an additional $25,000, the staff would hire one additional administrative or support person. The addition of this person would assist in overcoming some of the backlog of current actions. With an added $50,000, the staff would hire an additional professional person who would work primarily in pricing and in expediting addition

actions. The addition of this person would permit the staff to overcome the current backlog of pricing and addition actions. This would enable the committee staff to increase the number of addition actions it processes thereby increasing the number of blind and other severely handicapped who could be provided meaningful employment in producing products and providing services for the Government under the committee's program.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Will you please respond to the questions that we will submit and that of Senator Domenici's.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

ORIGINAL BUDGET REQUEST

Question. The Committee for Purchase From the Blind and Other Severely Handicapped was established to increase the employment opportunities for the blind and other severely handicapped and to attempt to prepare them to engage in normal competitive employment. To do this, the President has recommended a 1988 budget of $825,000. What was your original request to OMB for fiscal 1988 and where were you cut back, if at all?

Answer. At the direction of OMB, the committee's budget request for fiscal year 1988 contained funding for various levels of operations. The minimum program level of $787,000 was accepted by OMB without any cuts. The original amount was later adjusted to reflect the increases due to the new pay rates which became effective January 4, 1987, and the increase costs of personnel benefits due to the new Federal Employees' Retirement System.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

BIENNIAL BUDGET CONCEPT

Question. Calls for budget reform are increasingly heard as budget deadlines are too often missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the 2-year budget cycle where budget and appropriations matters would be considered in the first year, and authorizations and oversight would be undertaken in the second year.

Would your department/agency favor a biennial budget process: What benefits would your agency achieve in a 2-year appropriation cycle?

Answer. The administration is studying multiyear budgeting and whether to propose biennial budgeting for appropriation accounts other than for national defense. Biennial budgeting would appear to have substantial advantages for a number of agencies. With respect to our own agency, this committee would generally favor a biennial budget cycle. The primary benefit would be the savings in the time now required for the preparation and justification of its budget each year. We do recognize that in a biennial budget there would still likely be a need for a process for review and perhaps revisions in the off year.

Question. Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Answer. At least 80 percent of the committee's annual appropriation is repetitious of the previous year's submission adjusted for changes in the rates fo pay or the rates of payment charged the committee by other agencies.

Question. What difficulties can you foresee in preparing and submitting a 2-year budget to the Congress?

Answer. This committee is required to submit its appropriation request to OMB 13 months before the beginning of the fiscal year for which funds are being requested. The 2-year appropriations cycle would require the committee to forecast funding requirements for more than 36 months in the future (the end of the second budget year). The bulk of the committee's budget is governed by Federal pay rates and the rates that other agencies charge the committee such as for SLUC, GSA administrative and legal support, and the publication of notices in the Federal Register. The committee believes that, to ensure orderly operations, the second year's request for funds should take into account possible increases in costs for pay and other areas, such as those listed above.

Question. If you oppose the biennial budget concept, please give this subcommittee your reasons why?

Answer. The committee does not oppose the biennial budget concept.

SUBCOMMITTEE RECESS

Senator DECONCINI. Very good. Thank you, gentlemen, very much. That will conclude our testimony today. The record will remain open for 5 days for anybody who wants to submit anything and we will stand in recess until Thursday, March 5 in this same room at 1:30 when we will hear from the U.S. Customs Service.

[Whereupon, at 11:30 a.m., Monday, March 2, the subcommittee was recessed, to reconvene at 1:30 p.m., Thursday, March 5.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

THURSDAY, MARCH 5, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:32 p.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Domenici, D'Amato, and Mikulski.

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

STATEMENTS OF:
FRANCIS A. KEATING II, ASSISTANT SECRETARY FOR ENFORCEMENT
WILLIAM VON RAAB, COMMISSIONER OF CUSTOMS

ACCOMPANIED BY:
WAYNE HAMILTON, ACTING COMPTROLLER
WILLIAM ROSENBLATT, ASSISTANT COMMISSIONER, OFFICE OF ENFORCEMENT
SAMUEL BANKS, ASSISTANT COMMISSIONER, OFFICE OF INSPECTION AND CONTROL
MICHAEL SCHMITZ, GENERAL COUNSEL
JILL KENT, DEPUTY ASSISTANT SECRETARY OF TREASURY FOR DEPARTMENTAL FINANCE AND PLANNING

OPENING REMARKS

Senator DECONCINI. The Subcommittee will come to order.

This afternoon, the Subcommittee on Treasury, Postal Service, and General Government is meeting to receive testimony from the Honorable William von Raab, Commissioner of the U.S. Customs; Mr. Keating, Assistant Secretary.

Mr. Commissioner, welcome, and Mr. Secretary, thank you for being here a second day. I am not sure how many days you can stand this fun, but we are glad to have you.

Mr. KEATING. Thank you.

Senator DECONCINI. Commissioner, I think it is appropriate that our first attempt to review the President's plan for the U.S. Customs Service

was snowed out. Frankly, for the past 6 years, the President has been attempting to snow America, in my judgment, on where we are going on these drugs. Last year, he came forward very positively, and I compliment you and Mr. Keating for having the influence down at the White House to get him really onboard or the White House onboard on the omnibus drug bill. I think you gentlemen played a major role in convincing the White House that this was the way to go.

The Customs Service budget request for fiscal year 1988 is $899.8 million, a reduction of $119.7 million below current levels, including a cut of $85 million in the Air Interdiction Program and a cut of $27 million in salaries and expenses. Needless to say, I believe your budget is woefully inadequate and symbolizes some retreat in a very important area, and in the very strong words that President Reagan used last year on how we were really going to get after this drug problem.

The budget which you will have the unenviable task of supporting today fails miserably, in my judgment, to provide this critical agency with tools to do your job, both in law enforcement and also on the commercial side of your operations. If I have anything to do with it, you will have those tools, and I hope that we can give constructive assistance here to restore some of these losses.

Commissioner, much has happened since we last met in a hearing. The drug bill passed and a trade bill is on the way. You and I are now confronted with a number of user fee provisions that will presumably change some of the ways Customs does its business. Because fiscal year 1987 was such a special year, I intend to spend a good part of the time catching up on what you have done in the current fiscal year.

As usual, Commissioner, I am interested in the readiness of the new airplanes and equipment under your wing, not to coin a phrase. I have visited North Island and Tucson customs branch services and am impressed with the quality of people within your agency, and I want to urge you to be forthcoming in presenting all the facts, as complex as they may be, surrounding the use of this equipment. I think we learned a good lesson last year of having some equipment and not having enough pilots. And I hope we can avoid that happening again.

So, with that, I will yield to my good friend from New Mexico for any opening statement that he might have.

SENATOR DOMENICI'S OPENING REMARKS

Senator DOMENICI. Thank you very much, Mr. Chairman.

I do have, with your concurrence, a summary statement because I too am very concerned about what is happening in the budget. And I think one way for me to let the Commissioner know is to go through the enhancement that has occurred.

So I would like to join you, Mr. Chairman, in welcoming the Commissioner. As you know, I have been on the Appropriations Committee for a few years, but I join you as ranking member, as a new member of this subcommittee, and I hope you know that I look forward to working with you, and I hope the Commissioner understands I intend to

work with them. Even though I am new on the subcommittee, Commissioner, we are not strangers.

OPERATION ALLIANCE

I do very much appreciate your willingness over the past years to be available to help us with our Southwest border concerns. In particular, I want to commend you for your strong support of Operation Alliance. Last April, five of us, including you, Mr. Chairman, wrote to the President expressing our concern about the increased drug trafficking along our Southwest border. We called upon the President to do something significant. From that came the task force from which came Alliance.

The administration heeded our call. The Attorney General announced the initiation of Operation Alliance. Operation Alliance is a coordinated strategy to fight drug smuggling from Mexico, which involves a set pooling of the resources of the Federal, State, and local governments. We all thought it would send a strong message but, in addition, we thought it would accomplish some real good.

Last year, we all worked together. In the waning moments of the last Congress, we provided $1.7 billion, as you recall, in supplemental funds to attack the Nation's drug problems. With those funds, a number of Federal agencies are dedicating additional resources and personnel to Operation Alliance on our Southwest border.

The Customs Service alone is providing a total of $32.5 million in funds and 563 additional staff positions to support Alliance in fiscal year 1987. This has led to additional enforcement personnel and resources being stationed in your State, Mr. Chairman, and certainly in my State of New Mexico, to halt the flow of drugs across the border as best we can.

Just as examples, Customs has assigned, if I am not mistaken, Mr. Commissioner, 43 additional personnel in just New Mexico, including 34 new air branch positions and 9 new criminal investigator positions to boost the total investigative field force to around 25. I understand that five of these additional criminal investigators will be assigned to Albuquerque, two to Deming, and two to Las Cruces.

In addition, three primary interdiction aircraft, much of which is attributable to your hard work, Mr. Chairman, will be added to the Albuquerque air branch, increasing the total to a fleet of nine.

To increase radar coverage of New Mexico's southern border, one of the aerostats authorized by the Anti-Drug Act will be placed on the border in New Mexico or west Texas. A chief benefit of this new radar coverage will be the ability to detect what we have been working on for years, low flying aircraft.

Customs is also planning to deliver a total of 10 new voice privacy radios to New Mexico State and local law enforcement agencies to provide a communications network to increase the coordination between Federal, State, and local officials in apprehending drug smugglers. As I talked with the Commissioner in preparation for this hearing, Mr. Chairman, he told me that frequently it is the very simple things that

they need in order to help. And obviously, in this area, he indicated that voice privacy radios were very much in demand. One would think we were past that day but, as he indicated, we certainly are not.

These are examples of what the Customs Service is doing. Additional resources are being provided in support of Operation Alliance by other agencies, such as the Drug Enforcement Administration, the FBI, and the BATF. We even understand there will be a substantial increase in the U.S. district attorney office in Albuquerque for prosecutors for the State of New Mexico.

FISCAL YEAR 1988 BUDGET REQUEST

So we start the hearing off on a very high note, full of commendation and with a great deal of hope that we will make some real strides. Unfortunately, we cannot end our comments on a high note because we just got started, and now the budget, which is before us, will force substantial cutbacks in many of these areas.

Commissioner, I hope you understand that we realize that you have a job as part of putting a budget together. Nonetheless, I join my chairman in being very concerned that we just start something, and we barely have gotten to first base and still have got to get all the way home, and you decide to send the player on first base back to the plate to take another swing.

So I am very hopeful that together we will be able to find more resources, Mr. Chairman, to keep these efforts at least at the level they are at so that we can make some significant strides in drug interdiction.

Thank you for your patience, and Commissioner, I am sorry that I have to end on a down note, but I think we might as well put it on the table. On the one hand, we compliment you. On the other hand, we are very concerned about the appropriations request.

Senator DECONCINI. Senator Domenici, we thank you. Indeed, I am glad you gave that little historical background of the Southwest border caucus which you chaired and initiated. Before you came in, I also complimented Mr. Keating and Mr. von Raab for having some influence with the White House—by getting their attention, and the attention of the Attorney General. We did it, and now we are, as you say, starting back again at home plate.

So we will tackle it together. I appreciate your deep interest, particularly in light of your position as the ranking member of the Budget Committee, and knowing of the many things you have on your platter.

Mr. Keating?

PREPARED STATEMENT

Mr. KEATING. Mr. Chairman, Senator Domenici. I have a formal statement I would appreciate if it could be used for the record.

Senator DECONCINI. Without objection, it will appear.

[The statement follows:]

STATEMENT OF FRANCIS A. KEATING, II

I am pleased to appear before you today in support of the annual appropriation request of the U.S. Customs Service for Fiscal Year 1988. With me today are Mr. William von Raab, Commissioner of the U.S. Customs Service, key staff members, whom the Commissioner will introduce, and Jill E. Kent, Deputy Assistant Secretary for Departmental Finance and Management.

The Fiscal Year 1988 request for the U.S. Customs Service is $803,090,000 and 13,039 direct average positions for Salaries and Expenses, and $86,210,000 for Operations and Maintenance of the air program.

The Customs Service has one of the most diverse and challenging missions of our government agencies. It is a law enforcement agency with a critical role in enforcing our country's laws involving trade and tariff matters, narcotics interdiction, currency violations, and the illegal exportation of critical technology.

In fulfilling its responsibility for enforcing this nation's complex tariff laws and regulations, Customs must ensure the collection of duties and the processing of passengers and vast quantities of merchandise. For Fiscal Year 1988, the U.S. Customs Service plans to process 316.8 million persons, 105.6 million conveyances, 7.6 million formal entries of merchandise and collect an estimated $15.3 billion in revenue.

Not only does Customs have a diverse and sizeable workload but it is also a rapidly changing workload. Practically, all aspects of Customs' workload are rapidly changing -- smugglers, money launderers, and other criminals are constantly changing their methods; trade patterns are changing in terms of merchandise imported, packaging methods, and modes of

transportation; and travellers are changing their routes and frequency of travel. Under the leadership of Commissioner von Raab, the U.S. Customs Service has become an agency which is flexible and adaptable so that it can meet these changing workload demands.

The Automated Commercial System (ACS) is an example of the modernization and streamlining that the U.S. Customs Service has undergone in the past few years which enables it to accommodate change. The ACS is a single system which integrates all aspects of Customs commercial cargo processing. This includes cargo examination, release of cargo, entry selectivity, duty assessment and collection. It provides information on bonds, quotas, fines, penalties, and forfeitures. The Selective Entry module identifies low risk entries for quick processing and assists in identifying high risk entries for intensive review. This system, which serves both facilitation and enforcement, is currently operating in 57 ports of entry.

One of the major advantages of the ACS is that it permits electronic interchange of data between the trade community and Customs, thereby reducing expensive hard copy paperwork, and at the same time speeding up processing time. This part of ACS is called the Automated Broker Interface, or as it is known, ABI. At this time, over 30% of total entry summaries are processed electronically through ABI. This number is expected to increase to 50% by the end of 1987. The ultimate potential for electronic processing is estimated to be 75-85% of all entry summaries.

Notwithstanding the modernization and streamlining efforts of Customs, enforcement remains a top priority. Drug smuggling continues to be a major problem. The U.S. Customs Service, being the primary border enforcement agency, plays a vital role in the

interdiction of illegal drugs. Customs has adopted a balanced approach, including air and marine interdiction programs, which addresses all modes and methods of drug smuggling. In Fiscal Year 1986, Customs seized 26 tons of cocaine, 9 tons of hashish and 1100 tons of marijuana, as well as 692 pounds of heroin. Customs continues to develop new methods and strategies against drug smuggling. Customs is a key participant in government-wide programs such as Operation Alliance and the President's Organized Crime Drug Enforcement Task Forces.

Operation Alliance is our government's interdepartmental effort to attack drug smuggling in the Southwest Border region. Alliance, which is directed by a National Drug Policy Board Subcommittee which I chair, provides the central leadership and intelligence for coordinated drug interdiction and investigation. Alliance responds to the drug trafficking threat in this region by concentrating resources, sharing intelligence, and carefully coordinating enforcement operations. Mr. Chairman, I would like to take this opportunity to express my deep appreciation to you and to this Committee for your strong and continuing support of this vital initiative.

Customs participates with other Federal law enforcement agencies in 13 core city task forces in the Organized Crime Drug Enforcement program. In these investigations, Customs targets drug smuggling groups engaged in money laundering and related forms of organized crime. In Fiscal Year 1986, cases involving Customs participation resulted in 1,277 indictments, 1,042 arrests, 753 convictions, 107 million dollars in U.S. currency and property seizures, seizures of nearly 9,000 pounds of cocaine and 227 pounds of heroin, and five million dollars in fines assessed.

The emphasis on enforcement at Customs has increased the number of investigators from 400 in 1981 to over 1100 today. Three major program areas are currently emphasized: financial investigations, commercial fraud investigations, and export enforcement.

The shift in recent years of investigative resources to significant commercial fraud investigations has produced excellent results in terms of financial gains to the government as well as prosecution of significant criminal cases. In Fiscal Year 1986, Operation Tripwire accounted for 62 arrests and 89 indictments. Textile seizures totalled approximately $28.5 million and copyright/trademark seizures for the year had a domestic value of $40.6 million.

Mr. Chairman, that concludes my statement. I will now ask Mr. William von Raab, the Commissioner of the U.S. Customs Service, to present his prepared statement, and then we will be happy to respond to questions the Committee may have.

OPERATION ALLIANCE

Mr. KEATING. Before I introduce Commissioner von Raab, whom you know, I would like to make an observation about Operation Alliance.

As you are aware, Senator DeConcini, I chair the Southwest border subcommittee of the National Drug Policy Board. Following the leadership that you have provided, and the leadership of this Congress; and following an analysis of the statistics in the spring, showing that fully one-third of the marijuana entering the United States was being grown or transshipped through Mexico, one-third of the heroin, and one-third of the cocaine; we put together Operation Alliance, which was intended to be a coordinated response from all Federal agencies to respond to that threat from along the Southwest border.

In the first year of the life of the Alliance, we committed 384 Customs employees, 111 IRS agents, 25 ATF agents, 1,000 border patrol agents, a Secret Service presence at the EPIC command center, in addition to other officials from the Federal family.

We have a nine-member operating group out of El Paso which operates Alliance, consisting of four members from State and local government, and a nine-member executive or command group. Those four members are elected by your individual States. There is a chairman from the State of New Mexico. Of course, there is a chairman for the State of Arizona. We feel that it is working very well.

As of now, we have a full-time director, with full-time staff. As both of you have indicated, hard assets will be replaced by the end of this fiscal year, at the latest, hopefully, by the end of next fiscal year, five aerostat balloons, the helicopters going into Davis Monthan, the E–2C's, which are anticipated to be up and operational as of the first of March; the refigured P–3, as well as the other assets that Senator Domenici mentioned in his opening statement.

I am very optimistic about the success of that initiative. We have the cooperation of State and local government in it. We also have significant assets and significant leadership from the Congress, which we appreciate.

At this time, I will introduce Mr. von Raab.

Senator DECONCINI. Excuse me just a minute, Mr. von Raab. Senator D'Amato has joined us. Do you have an opening statement, Senator D'Amato?

PREPARED STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Mr. Chairman, I ask permission to submit mine to the record as if read in its entirety.

Senator DECONCINI. Without objection.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE D'AMATO

Mr. Chairman, the budget submitted for the Customs Service marks a retreat from the promises made last year to the American people. It will hinder the performance of Customs in two critical areas: the war on drugs and commercial operations.

The Customs Service appropriation for fiscal year 1987 totals $1.019 billion and 15,043 average positions. These levels were approved by the administration when the President signed the continuing resolution into law last October 18.

The budget before us now proposes to reduce these levels dramatically. It proposes a rescission in fiscal year 1987 of $38,945,000 and 1,485 positions. It also proposes a delay in the obligation of $32,099,000 for the Air Interdiction Program until next year.

The proposed appropriation for fiscal year 1988 totals $899,786,000 and 13,047 average positions. These levels are 12 percent, or $119,649,000 and 1,996 positions, below the levels funded last year in the continuing resolution.

SPECIFIC OBJECTIONS

There are several specific aspects of this budget I hope we can focus on at today's hearing:

THE AIR INTERDICTION PROGRAM

The administration has asked us to delay $32 million for this program until next year.

This request would delay the spending of at least: $18.4 million for Customs command and control centers; $6.6 million for the modification of C-12 aircraft with drug interdiction radar; $3.3 million for operations and maintenance of the new E-2C radar planes; and smaller amounts for spare parts and the like.

CUSTOMS FORFEITURE FUND

The proposed budget would cut this fund by 44 percent, from $18 million this year to $10 million in 1988. OMB says this reflects the nonrecurring costs of the Fiscal Year 1987 Drug Interdiction Enforcement Act (Public Law 99-570).

There is nothing nonrecurring about investigative costs leading to seizures, or the costs of equipping Customs vehicles and aircraft for law enforcement purposes.

CUSTOMS USERS FEES

The Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509) established a new Customs user fee account. Under this system, fees based on the value of imports are to be deposited into the new account. They will be used, subject to appropriations, to fund the commercial operations of the Customs Service.

The Office of Management and Budget estimates that $417 million will come into the Customs user fee receipts account in 1987. Yet OMB does not propose that we appropriate any of that money this year.

In addition to the $417 million in receipts expected for 1987, OMB lists $387 million in the receipts account for 1988. This means that OMB expects $804 million to be received through 1988. Yet OMB proposes appropriations of only $499 million for 1988.

What does OMB intend for the other $305 million?

The budget that has been submitted is not realistic. I look forward to working with you on a different budget, one that builds on the great start we made with the Anti-Drug Abuse Act of 1986—one that keeps, not breaks, the promise we made to the American people just 4 months ago.

Thank you, Mr. Chairman.

MR. VON RAAB'S OPENING REMARKS

Mr. VON RAAB. Thank you, Mr. Chairman, and members of the committee.

It is a pleasure to appear before Members of the Senate, particularly this group of Members of the Senate, who are all, I hope, good friends of mine. I have enjoyed working with each and every one of them now for several years.

My purpose here is to appear before you to discuss our fiscal year 1988 appropriations request. I have a long detailed statement and request that it be placed in the record, and I will just make some brief remarks.

Our request totals $803,090,000 for the "Salaries and expenses" account; $86,210,000 for the "Operations and maintenance" account, which is the air program; $10 million for the forfeiture fund; and $486,000 for the "Customs services at small airports" account.

As has been discussed in your statements, members of the committee, it has been a very active year for the Customs Service. We have deployed over 600 new personnel on the Southwest border. As a matter of fact, if you look over a period of 2 years, we have deployed an additional 900 personnel on the Southwest border, and we have placed new and sophisticated aircraft in the air, and intensified our cooperation with State and local law enforcement officials all over the country.

A lot of this is in addition to our ongoing effort to stop illicit drug traffic.

Mr. Chairman, we have also taken dramatic steps on the commercial side. Our efforts have concentrated on improving processing of commercial traffic, while not cutting back enforcement efforts to detect narcotics, fraud, and quota violations. We have done this through expansion of the automated commercial system and selectivity systems, which allow inspectors to concentrate on high-risk passengers and cargo, while allowing legitimate transactions to receive minimal attention. Our streamlining efforts will continue.

PREPARED STATEMENT

Mr. Chairman, there is much more I could say, much of which is contained in my submitted statement, but in order to better serve the committee, I would be happy at this point to answer your questions.

[The statement follows:]

STATEMENT OF WILLIAM VON RAAB

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO PRESENT THE U.S. CUSTOMS SERVICE FY 1988 APPROPRIATION REQUEST. WE ARE REQUESTING $803,090,000 AND 13,039 DIRECT AVERAGE POSITIONS FOR SALARIES AND EXPENSES AND $86,210,000 FOR OPERATIONS AND MAINTENANCE OF THE AIR PROGRAM. CUSTOMS IS ALSO REQUESTING AN APPROPRIATION OF $10,000,000 FOR THE FORFEITURE FUND AND $486,000 TO RECOVER ANTICIPATED REIMBURSEMENTS FOR SERVICES AT SMALL AIRPORTS.

CUSTOMS SALARIES AND EXPENSES FY 1988 APPROPRIATION REQUEST REPRESENTS A NET INCREASE OF $11,915,000 FROM THE REVISED FUNDING LEVEL PROPOSED TO CONGRESS FOR FY 1987.

CUSTOMS AIR PROGRAM OPERATIONS AND MAINTENANCE APPROPRIATION REQUESTS $86,210,000 FOR FY 1988. IN ADDITION, THERE IS INCLUDED IN FY 1988 $32,099,000 OF NO-YEAR RESOURCES APPROPRIATED IN FY 1987.

THIS BUDGET REQUEST INCLUDES PROPOSED ADJUSTMENTS TO THE FY 1987 CONTINUING RESOLUTION LEVEL PASSED BY P.L. 99-591. THE SALARIES AND EXPENSES APPROPRIATION INCLUDES A PROPOSED RESCISION FOR FY 1987 OF $38,945,000 AND 1,485 AVERAGE POSITIONS.

MAJOR ACCOMPLISHMENTS

IN ITS CAPACITY AS A REVENUE COLLECTING AGENCY UNDER THE TARIFF CODE OF 1930, THE CUSTOMS SERVICE COLLECTED $14.7 BILLION IN FY 1986. THIS TOTAL IS PROJECTED TO REACH $15.3 BILLION IN FY 1988.

CUSTOMS CLEARED 301,496,000 PERSONS AND PROCESSED 7,320,000 MERCHANDISE ENTRIES IN FY 1986, UP 7.3%.

AMONG OTHER THINGS CUSTOMS ALSO SEIZED 52,521 POUNDS OF COCAINE, THIS NATION'S NUMBER ONE NARCOTICS THREAT, 692 POUNDS OF HEROIN, 2,211,068 POUNDS OF MARIJUANA AND 17,555 POUNDS OF HASHISH. EARLY THIS YEAR CUSTOMS SEIZED A SINGLE CONTAINER CONTAINING 6,900 POUNDS OF COCAINE.

THE KNOWLEDGE THAT CUSTOMS HAS IN THE PAST YEAR CARRIED OUT THESE MILLIONS OF TRANSACTIONS IS MEANINGLESS WITHOUT THE KNOWLEDGE OF HOW CUSTOMS IS IMPROVING THE WAY IT DOES BUSINESS. AS A RESULT OF A NUMBER OF INNOVATIONS AND MANAGERIAL IMPROVEMENTS EITHER INITIATED IN FY 1986 OR CARRIED OVER FROM ONE OF THE PREVIOUS FOUR YEARS, I BELIEVE CUSTOMS IS DOING A BETTER JOB. I HAVE ATTACHED FOR THE COMMITTEE'S BENEFIT A COPY OF "U.S. CUSTOMS SERVICE ACCOMPLISHMENTS 1982 THROUGH 1986.

FIRST, I WILL ADDRESS CUSTOMS DRUG INTERDICTION EFFORT. UNDER REORGANIZATION PLAN NUMBER 2 OF 1973, CUSTOMS IS THE PRIMARY NARCOTICS BORDER NTERDICTION AGENCY. THIS COUNTRY IS FACING THE THREAT OF ILLEGAL IMPORTATION OF BUMPER CROPS OF COCAINE, MARIJUANA AND HEROIN. CUSTOMS HAS BEEN RELYING ON COOPERATION WITH THE PRIVATE SECTOR AND OTHER LAW ENFORCEMENT AGENCIES AND SMARTER USE OF OUR AUTOMATED SYSTEMS TO PUT GREATER AND GREATER PRESSURE ON NARCO-TRAFFICKERS.

CUSTOMS NARCOTICS COOPERATIVE EFFORTS WITH THE PRIVATE SECTOR ARE ALSO CONTINUING AND EXPANDING WITH THE ESTABLISHMENT OF THE 1-800-BE-ALERT SMUGGLING HOTLINE TO COMMUNITIES ALONG THE ENTIRE SOUTHERN TIER OF THE UNITED STATES. ON THE SOUTHWEST BORDER, LOCAL TRADE GROUPS ARE NOW WORKING WITH US TO DETERMINE HOW THEY CAN MONITOR THEIR OWN TRANS UNITED STATES/MEXICAN BORDER

COMMERCIAL TRAFFIC THEREBY PREVENTING UNAUTHORIZED AND ILLEGAL USE OF THOSE VEHICLES TO SMUGGLE NARCOTICS.

ANOTHER CUSTOMS COOPERATIVE NARCOTICS INTERDICTION EFFORT THAT IS EXPANDING INVOLVES COMMERCIAL AIR AND SEA CARRIERS. THE COMMERCIAL CONCEPT BEGAN WITH AIR CARRIERS IN 1983. SINCE 1984 U.S. CUSTOMS HAS ENTERED INTO MEMORANDUMS OF UNDERSTANDING WITH MORE THAN 40 COMMERCIAL AIR CARRIERS SERVING HIGH RISK NARCOTIC SOURCE OR IN-TRANSIT LOCATIONS. THIS PROGRAM HAS PREVENTED 1100 POUNDS OF COCAINE, 12,000 POUNDS OF MARIJUANA AND 8 POUNDS OF HEROIN FROM REACHING THE U.S. MARKET. THIS PROGRAM IS NOW BEING EXPANDED TO THE COMMERCIAL SEA CARRIER COMMUNITY. ALL PARTICIPANTS IN THIS PROGRAM RECEIVE NARCOTICS ENFORCEMENT TRAINING FROM CUSTOMS IN RETURN FOR THEIR COOPERATION.

CUSTOMS IS GAINING BETTER CONTROL OF HIGH THREAT AREAS IN OUR AIRPORTS. THE CUSTOMS AIRPORT SECURITY PROGRAM WAS INITIATED IN EARLY FY 1986. IT REQUIRES AIRLINES TO CHECK THE HISTORY OF ALL EMPLOYEES THAT HAVE ACCESS TO SECURE CUSTOMS AREAS IN OR AROUND AIRPORT BUILDINGS. UNTRUSTWORTHY BAGGAGE HANDLERS OR RAMP SUPERVISORS NOW RUN A MUCH GREATER RISK OF BEING APPREHENDED OR DISMISSED IF THEY COOPERATE WITH NARCOTICS SMUGGLERS.

CUSTOMS TACTICAL NARCOTICS ENFORCEMENT: AIR AND MARINE PROGRAMS

CUSTOMS CURRENTLY HAS A FLEET OF 92 FIXED WING AND ROTARY AIRCRAFT IN USE TO DETECT, TRACK AND APPREHEND NARCOTICS SMUGGLERS USING PRIVATE AIRCRAFT. IN FY 1986, WITH FEWER AIRCRAFT THAN ARE ON BOARD NOW, THE CUSTOMS AIR PROGRAM SEIZED 16,145 POUNDS OF COCAINE.

CUSTOMS AIR INTERDICTION PROGRAM RESOURCES HAVE GROWN CONSIDERABLY SINCE EARLY 1984. OPERATIONS AND MAINTENANCE FUNDING HAS INCREASED SINCE THAT TIME FROM $31 MILLION IN FY 84 TO $170.9 MILLION IN FY 87. WE HAVE ALSO ADDED THE FOLLOWING RESOURCES SINCE 1984:

4	CESSNA CITATION II
4	P-3A ORIONS
2	E-2C HAWKEYES
10	BLACKHAWK HELICOPTERS
8	PIPER CHEYENNES
1	AEROSTAT

AS YOU KNOW, AIR SMUGGLERS ARE USING INCREASINGLY MORE SOPHISTICATED EQUIPMENT. IN BATTLING THESE CRIMINALS, CUSTOMS IS NOW DEPLOYING ITS HIGH PERFORMANCE, FULLY SENSORED HIGH SPEED INTERCEPTORS, HELICOPTERS AND AIRBORNE RADAR PLATFORMS, AND EIGHT NEW CUSTOMS HIGH ENDURANCE TRACKERS (CHETS). CUSTOMS ANTICIPATES DEPLOYING A NUMBER OF MODIFIED C-12 MILITARY AIRCRAFT TO BE UTILIZED AS TRACKER/INTERCEPTOR ASSETS. AN INTEGRATED LOGISTICS SYSTEM, WHICH PROVIDES COST EFFECTIVE MANAGEMENT OF CUSTOMS INCREASING AVIATION RESOURCES, HAS BEEN COMPLETED. CUSTOMS TRACKING AND APPREHENSION ABILITY WILL BE FURTHER ENHANCED WHEN THE CUSTOMS E2-C'S WITH 360 DEGREE LOOK DOWN RADAR ARE DEPLOYED NEXT MONTH. THE TWO E2-C'S PROVIDED IN THE 1986 DRUG BILL WILL GIVE CUSTOMS THE ABILITY TO FLY SUSTAINED MISSIONS ON THE SOUTHERN BORDER AND AND OVER THE GULF OF MEXICO. THESE MISSIONS WILL IMPROVE OUR ABILITY TO DETECT SMUGGLING AIRCRAFT. THESE AIRCRAFT IN ADDITION TO THE PLACEMENT OF THE AEROSTATS IN THE

COMING YEARS, WILL GIVE CUSTOMS THE ABILITY TO MAKE A LARGE IMPACT ON ILLICIT NARCOTICS TRADE.

BASED ON THE SUCCESSFUL STRATEGY APPLIED IN THE SOUTHEAST, WE PLAN TO ESTABLISH AIR MODULES ALONG THE ENTIRE BORDER. THE BASIC PREMISE OF THE AIR MODULES IS TO PROVIDE CUSTOMS WITH THE INTEGRAL ABILITY TO DETECT, INTERCEPT, TRACK AND APPREHEND THE AIR SMUGGLER.

ULTIMATELY, THE OVERALL EFFECTIVENESS OF THE FULL AIR PROGRAM IS DEPENDENT ON THE COMMAND, COMMUNICATION, CONTROL AND INTELLIGENCE (C3I) SYSTEM AND THE DETECTION NETWORK OF AIRBORNE AND GROUND BASED RADARS. CUSTOMS BELIEVES THAT THE CONTINUED STRONG CENTRALIZED MANAGEMENT OF ASSETS AND THE INCREMENTAL BUILDUP OF CURRENTLY PLANNED C3I CENTERS WILL RESULT IN OPTIMAL EFFECTIVENESS OF CUSTOMS RESPONSE TO THE SHIFTING AND INCREASING SMUGGLING THREAT.

IN ORDER TO PROVIDE REAL-TIME OPERATIONAL COORDINATION BETWEEN THE DETECTION, TRACKING AND APPREHENSION COMPONENTS OF CUSTOMS AIR MODULES, CUSTOMS IS ANTICIPATING THE AVAILABILITY OF C3I CENTERS AT THREE STRATEGIC LOCATIONS ALONG SENSITIVE U.S. BORDERS. THESE FACILITIES WILL ENABLE CUSTOMS TO BETTER CONTROL ITS ASSETS AND COORDINATE INTERDICTION EFFORTS WITH OTHER FEDERAL, STATE AND LOCAL AUTHORITIES.

THE ADMINISTRATION HAS REQUESTED CONGRESS TO DELAY AVAILABILITY OF $32,099,000 IN FY 1987 NO-YEAR FUNDS TO FY 1988 FOR AIR OPERATIONS AND MAINTENANCE. THIS FUNDING DELAY IS BEING REQUESTED BECAUSE OF TECHNICAL COST RE-ESTIMATES AND THE ADMINISTRATION'S VIEW THAT ONLY THREE C3I CENTERS ARE APPROPRIATE. THEREFORE, THE FY 1988 PROPOSED BUDGET LEVEL INCLUDES THE REQUESTED $86,210,000 AND THE $32,099,000 FOR A TOTAL OF $118,309,000. A KEY ELEMENT OF OUR FY 87 AND FY 88

BUDGETS IS A SUBSTANTIAL INCREASE IN AIR PROGRAM OPERATING HOURS; IN CRITICAL REGIONS, OPERATING HOURS WILL INCREASE TO A 7 BY 16 SCHEDULE. IN FY 1987 AND 1988, CUSTOMS WILL CONTINUE TO OPERATE EXISTING RESOURCES AS WELL AS CHETS, AND E-2C RADAR DETECTION AIRCRAFT. CUSTOMS WILL ALSO INSTALL HF/SSB RADIOS IN VESSELS, AIRCRAFT, AND COMMAND CENTERS, AND PLACE VHF REPEATERS ON AEROSTATS.

CUSTOMS HAS RECENTLY PLACED A GREATER EMPHASIS ON THE IMPORTANCE OF INFORMATION GATHERING AND THE USE OF TACTICAL INTELLIGENCE IN THE MARINE INTERDICTION PROCESS. CUSTOMS IS CONTINUING TO UTILIZE ITS MARINE ENFORCEMENT MODULE CONCEPT IN MANY LOCATIONS ON THE ATLANTIC, GULF OF MEXICO AND PACIFIC COASTS. EACH MARINE MODULE CONSISTS OF SPECIALLY TRAINED PERSONNEL AND STATE-OF-THE-ART MARINE EQUIPMENT. EACH TEAM IS RESPONSIBLE FOR DEVELOPING TACTICAL INFORMATION OF SMUGGLING IN ITS LOCAL AREA.

SINCE JANUARY, 1986, THE MARINE PROGRAM HAS ACQUIRED THE FOLLOWING ADDITIONAL RESOURCES: 30 INTERCEPTOR VESSELS, 10 SUPPORT VESSELS AND 3 RADAR PLATFORMS. IN ADDITION, CUSTOMS IS CURRENTLY PLANNING TO ACQUIRE AN ADDITIONAL 9 INTERCEPTORS, 10 SUPPORT VESSELS AND 1 RADAR PLATFORM. IN ADDITION, COMMUNICATION AND SENSOR EQUIPMENT HAS BEEN LOANED TO STATE AND LOCAL ENFORCEMENT AGENCIES FOR SUPPORTING OPERATIONS. CURRENTLY, SOME 375 RADIOS HAVE BEEN ASSIGNED TO STATE AND LOCAL GROUPS. CUSTOMS COOPERATION WITH STATE AND LOCAL AUTHORITIES HAVE BEEN ENHANCED IN THE PAST TWO YEARS THROUGH TWO OPERATIONS: "BLUE LIGHTNING'" IN FLORIDA AND THE GULF COAST AND "BLUE FIRE" ON THE SOUTHWEST BORDER. THESE OPERATIONS HAVE BROUGHT TOGETHER RESOURCES OF THE CUSTOMS SERVICE AND THE STATE AND LOCAL AUTHORITIES THROUGHOUT THE SOUTHERN U.S. TO COMBAT ILLICIT IMPORTATION OF NARCOTICS.

CUSTOMS HAS NOW BEGUN TO USE ITS TACTICAL MARINE UNITS TO MONITOR COMMERCIAL AND PRIVATE VESSEL ACTIVITY INTO MAJOR SEAPORTS. IN VARIOUS SEAPORTS, TO FURTHER INCREASE MARINE TARGET DETECTION CAPABILITIES, CUSTOMS HAS INSTALLED ROOFTOP RADAR UNITS IN INLETS AND ALONG COASTAL AREAS.

COMMERCIAL OPERATIONS

ONE OF THE RESULTS OF CUSTOMS ENHANCED TACTICAL INTERDICTION CAPABILITIES IS THE SMUGGLER'S TEMPTATION TO ATTEMPT ENTRY OF HIS CONTRABAND THROUGH ESTABLISHED PORTS OF ENTRY. IN ORDER TO MEET THE SUBSTANTIAL NARCOTICS SMUGGLING THREAT AT THESE LOCATIONS CUSTOMS HAS HAD TO DEVELOP AUTOMATED SYSTEMS AND NEW WAYS OF PROCESSING PASSENGERS AND CARGO. THESE CHANGES IN THE WAY CUSTOMS OPERATES ARE INDISPENSABLE IF EFFECTIVE ENFORCEMENT OF CUSTOMS AND RELATED LAWS IS TO BE RECONCILED WITH EFFICIENT MOVEMENT OF PEOPLE AND CARGO.

AT THE HEART OF THE CUSTOMS COMMERCIAL PROCESSING REFORMS IS THE RAPID DEVELOPMENT OF THE AUTOMATED COMMERCIAL SYSTEM (ACS). TODAY, AT NUMEROUS PORTS, WE HAVE ON-LINE A COMPREHENSIVE DATA BASE WITH ALL THE FUNCTIONS REQUIRED FOR PROCESSING ELECTRONICALLY TRANSMITTED OR MANUALLY PREPARED ENTRIES. THE SYSTEM CAN EFFICIENTLY PROCESS ANY AND ALL ENTRIES PREPARED BY BROKERS. ALL REVENUE COLLECTED BY CUSTOMS IS PROCESSED THROUGH ACS, AS IS THE PREPARATION OF A DAILY BROKER STATEMENT. THE SYSTEM IS ALSO INTEGRATED INTO THE ELECTRONIC OPERATIONS OF LOCAL PORT AUTHORITIES AND MAJOR IMPORTERS.

ALL TOLD, ACS IS COMPRISED OF TWENTY PRIMARY MODULES. WHEN FULLY DEVELOPED, THIS SYSTEM WILL PROVIDE MUCH IMPROVED MANAGEMENT INFORMATION, BETTER TRADE STATISTICS, SIGNIFICANT

CARGO PROCESSING EFFICIENCIES, AND INCREASED RESPONSIVENESS TO THE BUSINESS COMMUNITY.

ONE OF THE KEY ACS MODULES IS CALLED AUTOMATED BROKER INTERFACE OR ABI. CUSTOMS USES ABI TO PROCESS 30% OF ALL COMMERCIAL ENTRIES WHICH TOTALED 7.5 MILLION DURING 1986. ABI IS EXPECTED TO HANDLE 50% OF ALL ENTRIES BY 1988. SPEEDY ELECTRONIC HANDLING OF ENTRIES, REVENUE COLLECTIONS AND ENTRY LIQUIDATIONS ENABLE CUSTOMS TO PERFORM ITS MISSION WITH FEWER PERSONNEL.

ANOTHER ACS MODULE THAT IS HAVING A MAJOR ENFORCEMENT IMPACT ON CARGO PROCESSING IS ACS SELECTIVITY. THE SELECTIVITY MODULE IS AN ON-LINE SOPHISTICATED HISTORICAL DATA BASE WHICH HOLDS SUCH INFORMATION AS THE IMPORTER'S PAST RECORD WITH CUSTOMS, THE THREAT POTENTIAL OF PARTICULAR COMMODITIES, AND COUNTRY OF ORIGIN. INSPECTORS NOW DRAW CARGO INSPECTION RECOMMENDATIONS FROM ACS SELECTIVITY AS WELL AS THEIR OWN EXPERIENCE. IT SHOULD BE NOTED THAT ANY CUSTOMS INSPECTOR CAN OVERRIDE A SELECTIVITY RECOMMENDATION FOR A GENERAL OR CURSORY INSPECTION ON HIS OWN ACCORD. HOWEVER, OVERRIDE OF A SELECTIVITY RECOMMENDATION FOR AN INTENSIVE EXAMINATION REQUIRES THE APPROVAL OF THE INSPECTOR'S SUPERVISOR. FINALLY, SELECTIVITY INCORPORATES A RANDOM SAMPLE INSPECTION ELEMENT TO KEEP CLEAN SHIPPERS HONEST.

A QUOTA CONTROL WHICH IS OF PARAMOUNT INTEREST TO IMPORTERS HAS NOW BEEN INTEGRATED WITH ACS. THIS IMPROVES CUSTOMS CONTROL OVER QUOTA MERCHANDISE, IN PARTICULAR, THE ABILITY TO RESPOND QUICKLY TO CHANGING QUOTA REQUIREMENTS.

A CENSUS INTERFACE IS NOW OPERATIONAL IN ACS. DURING THE FIRST WEEK OF APRIL, THIS INTERFACE WILL TRANSMIT ELECTRONICALLY TO CENSUS ALL OF THE IMPORT LINE ITEM DATA THAT IS PROCESSED THROUGH ABI. THIS PROGRAM BENEFITS CUSTOMS AND THE BUREAU OF CENSUS BY PROVIDING MORE ACCURATE AND TIMELY TRADE STATISTICS AT

LESS COST TO THE GOVERNMENT. BROKERS AND IMPORTERS BENEFIT IN THAT THEY DO NOT NEED TO PROVIDE AN ADDITIONAL COPY OF THE ENTRY SUMMARY DOCUMENT FOR STATISTICAL PURPOSES. SINCE STATISTICAL ERRORS ARE DETECTED "UP FRONT", CENSUS, CUSTOMS AND THE BROKERS AND IMPORTERS ALL BENEFIT FROM NOT HAVING TO REPROCESS ENTRIES THAT HAVE ERRORS.

A COMPLETE AND ACCURATE TARIFF RATE IS AN INTEGRAL PART OF ACS. THIS INFORMATION IS AVAILABLE TO THE TRADE COMMUNITY AND IS BEING UTILIZED BY OVER 100 USERS.

A FINES, PENALTIES, AND FORFEITURES MODULE IS IN PLACE WHICH IMPROVES CUSTOMS CONTROL OF THIS SOURCE OF GOVERNMENT INCOME.

A KEY TO ACS IS THE AUTOMATED MANIFEST SYSTEM WHICH ELECTRONICALLY COLLECTS MANIFEST DATA FROM IMPORTING CARRIERS. THIS IS THE INVENTORY OF SHIPMENTS THAT CUSTOMS CONTROLS. THIS IS FULLY OPERATIONAL IN NORFOLK AND LONG BEACH. WE ANTICIPATE COLLECTION OF 40% OF ALL IMPORTED SEA CARGO THROUGH THE PORT OF NEW YORK IN APRIL OF THIS YEAR.

AN EXPANSION OF THE LINE RELEASE SYSTEMS IS PLANNED FOR 1987 AND 1988. THIS SYSTEM, AT BOTH THE NORTHERN AND SOUTHERN BORDERS, ALLOWS CUSTOMS AND AUTOMATED BROKERS AND IMPORTERS TO PRE-DETERMINE ROUTINE, LOW RISK SHIPMENTS FOR IMMEDIATE RELEASE, THUS EXPEDITING THE MOVEMENT OF CARGO, WHILE AT THE SAME TIME, ENSURING INCREASED CUSTOMS CONTROL. THIS SYSTEM RECORDS THE SPECIFIC DETAILS OF IMPORTS ARRIVING IN THE U.S. THROUGH THE USE OF BAR CODES. THE PROCESS IS VERY SIMILAR TO HOW GROCERY PRICES ARE RECORDED AT THE SUPERMARKET. THIS IMPROVES THE SPEED AND ACCURACY OF CARGO RELEASE.

CURRENTLY, THE DAILY SHIPMENT FEATURE OF THE AUTOMATED BROKER INTERFACE PROVIDES FOR A "SINGLE CHECK" PAYMENT OF A DAILY BATCH OF ENTRY SUMMARY PACKAGES WHICH IS PRESENTED TO CUSTOMS UP TO 10 DAYS AFTER THE CARGO RELEASE DATE. AN ADDITIONAL CAPABILITY HAS BEEN DEVELOPED TO PROVIDE FOR A "PERIODIC PAYMENT" PROCEDURE FOR ENTRY SUMMARIES TRANSMITTED THROUGH ABI. THIS CONCEPT HAS BEEN DESCRIBED AS BEING COMPARABLE TO A REVOLVING CHARGE ACCOUNT WHEREBY CHARGES AND CREDITS ARE APPLIED TO A CUSTOMER'S ACCOUNT AND THEN PAID ON A PERIODIC BASIS WITH INTEREST. THIS PROPOSED FEATURE HAS RECENTLY BEEN PUBLISHED IN THE FEDERAL REGISTER FOR TRADE COMMENT, WITH IMPLEMENTATION TO FOLLOW. PERIODIC PAYMENT WILL FURTHER ENHANCE THE COLLECTION PROCESS, AND AT THE SAME TIME, BENEFIT BOTH CUSTOMS AND THE TRADE BY ELIMINATING REDUNDANT FUNCTIONS AND REDUCING BOOKKEEPING COSTS.

CUSTOMS IS ALSO CONTINUING WITH THE OVERHAUL OF THE TREASURY ENFORCEMENT COMMUNICATIONS SYSTEM (TECS). THIS SYSTEM, WHICH PRE-DATES ACS AS WE KNOW IT TODAY, INCLUDES A COMPREHENSIVE ENFORCEMENT DATA BASE SYSTEM AND STATE-OF-THE-ART HARDWARE, SOFTWARE AND DATA MANAGEMENT SYSTEMS. THIS SYSTEM WILL SOON BE LINKED TO OTHER ACS MODULES, THEREBY PROVIDING FOR THE EXPANSION AND INTEGRATION OF THE EXISTING AUTOMATED ENFORCEMENT EFFORTS SUCH AS OPERATION EXODUS, THE TREASURY FINANCIAL LAW ENFORCEMENT SYSTEMS AND COMMERCIAL FRAUD, AS WELL AS OTHER ENFORCEMENT EFFORTS. TO SUMMERIZE THE ADMINISTRATION'S REQUEST EMPHASIZES THE FURTHER ACQUISITION AND USE OF HIGH TECHNOLOGY AND OTHER AUTOMATED PROCESSES, RATHER THAN PERSONNEL INTENSIVE APPROACHES.

COMMERCIAL OPERATIONS FUNDING

A MAJOR BUDGETARY CHANGE FOR CUSTOMS COMMERCIAL OPERATIONS IS BEST ADDRESSED AT THIS JUNCTURE.

THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (P.L. 99-509) ESTABLISHED AN AD VALOREM FEE BASED ON THE VALUE OF IMPORTED MERCHANDISE. RECEIPTS COLLECTED FROM THIS FEE ARE TO BE DEPOSITED IN THE "U.S. CUSTOMS USER FEE ACCOUNT" AND, SUBJECT TO APPROPRIATION, WILL BE USED TO FUND COMMERCIAL OPERATIONS WITHIN THE CUSTOMS SERVICE.

IN THE FY 1988 BUDGET REQUEST FOR SALARIES AND EXPENSES, COMMERCIAL ACTIVITIES OF INSPECTION AND CONTROL, ALL OF TARIFF AND TRADE AND THE COMMERCIAL FRAUD OPERATIONS OF INVESTIGATIONS HAVE BEEN CONSOLIDATED INTO THE COMMERCIAL OPERATIONS ACTIVITY. THIS PROGRAM INCLUDES 8,001 AVERAGE POSITIONS AND $499,198,000. THIS WILL NOT AFFECT THE PROGRAM DESCRIPTIONS AND JUSTIFICATIONS PRESENTED HERE.

CARGO PROCESSING USER FEE RECEIPTS HAVE BEEN COLLECTED IN FY 1987 SINCE DECEMBER 1, 1986. THE ADMINISTRATION HAS NOT PROPOSED RESCINDING CURRENT APPROPRIATED FY 87 FUNDS AND SUBSTITUTING AN APPROPRIATION FROM THESE USER FEES FOR CUSTOMS 1987 ACTIVITIES BECAUSE OF THE UNCERTAINTY OF OUR CURRENT RECEIPT ESITMATES AND THE NEED TO HAVE A BALANCE AT THE START OF FY 88 FROM WHICH A FY 88 APPROPRIATION CAN BE MADE.

INSPECTION AND CONTROL: PASSENGER AND CARGO PROCESSING

CUSTOMS INSPECTORS MAKE UP THE LARGEST SINGLE GROUP OF THE CUSTOMS FIELD OFFICERS. INSPECTORS OFTEN OPERATE IN A VARIETY OF SETTINGS WITHIN ONE PORT AREA, SOMETIMES PROCESSING THEIR PASSENGERS DURING THE MORNING OR AFTERNOON AND HANDLING AIR OR SEA CARGO THE REMAINDER OF THE DAY. OTHERS WORK IN CONTRABAND ENFORCEMENT TEAMS OR AT LAND BORDER STATIONS. WHATEVER THEIR STATION, INSPECTORS AND THEIR SUPERVISORS ARE CONSTANTLY DEALING WITH A CONFLICT: THE PUBLIC'S DESIRE TO SEE CUSTOMS ENFORCE

NARCOTICS AND COMMERCIAL FRAUD LAW WHILE AT THE SAME TIME FACILITATING SMOOTH PASSENGER AND CARGO FLOW.

MANAGERIAL AND TECHNICAL IMPROVEMENTS NOW IN THE INITIAL IMPLEMENTATION OR TESTING STAGES WILL INCREASE PASSENGER ENFORCEMENT EFFECTIVENESS WITHOUT INCREASING PASSENGER TIMES. SOME OF THESE ARE EXPANDED USE OF THE TREASURY ENFORCEMENT COMPUTER SYSTEM, THE USE OF PASSPORT READERS AND LICENSE PLATE READERS. THE MORE FAR REACHING INSPECTION AND CONTROL CHANGES, HOWEVER, ARE IN THE AREA OF CARGO PROCESSING.

CARGO PROCESSING

PRIOR TO THE ADVENT OF AUTOMATION CUSTOMS CARGO PROCESSING WAS STILL BEING DONE TODAY THE SAME WAY IT WAS DONE TWO HUNDRED YEARS AGO. WITH THE ADVENT OF RECORD HIGH VOLUMES OF COMMERCIAL ENTRIES, IT WAS APPARENT THAT CUSTOMS MUST CHANGE ITS CARGO PROCESSING TECHNIQUES. AS MENTIONED EARLIER, CUSTOMS EXPANDED USE OF ACS CARGO SELECTIVITY AND FURTHER DEVELOPMENT OF OTHER ACS MODULES IS AT THE HEART OF PROCESSING REFORMS. THE OTHER MAJOR CHANGE INVOLVES THE USE OF STRINGENT SELECTIVITY CRITERIA TO CHOOSE WHICH COMMERCIAL SHIPMENTS SHOULD RECEIVE INTENSIVE EXAMINATIONS, AND CENTRALIZATION OF A NUMBER OF KEY CUSTOMS FUNCTIONS: THE REVIEW OF COMMERCIAL DOCUMENTS, DEVANNING OF SHIPPING CONTAINERS AND THE EXAMINATION OF OTHER COMMERCIAL SHIPMENTS.

OVER THE YEARS, THERE HAS BEEN A RAPID INCREASE IN THE NUMBER OF CONTAINER FREIGHT STATIONS, BONDED WAREHOUSES, AND TRUCK AND RAIL TERMINALS RECEIVING BONDED FREIGHT. THE DEVANNING OF CONTAINERS AND THE EXAMINATION OF THIS CARGO HAS REQUIRED CUSTOMS INSPECTORS TO USE VALUABLE TIME TRAVELLING FROM SITE TO

SITE WITHIN PORT LIMITS, MOREOVER, DEVANNING AND EXAMINATION FACILITIES AT THESE REMOTE SITES ARE OFTEN INADEQUATE. THIS TIME IS NOW GOING TO BE SPENT EXAMINING CARGO AND CLEARING MERCHANDISE.

CENTRALIZATION OF DOCUMENT REVIEW IS ANOTHER MAJOR CHANGE IN THE WAY CUSTOMS DOES BUSINESS THAT, WHEN FULLY IMPLEMENTED, WILL REDUCE AVERAGE CARGO PROCESSING TIMES.

ALTHOUGH ALL THE CARGO PROCESSING CHANGES DISCUSSED HAVE SO FAR BEEN APPLIED IN SELECTED SEAPORTS AND AIRPORTS, CUSTOMS PLANS TO ADAPT THESE TECHNIQUES TO THE LAND BORDER ENVIRONMENT AS QUICKLY AS POSSIBLE. CUSTOMS IS CONFIDENT THAT THE FINAL RESULT OF ALL THESE CHANGES WILL BE A MORE EFFICIENT AND EFFECTIVE USE OF CUSTOMS PERSONNEL, BETTER ENFORCEMENT RESULTS AND EVEN BETTER FACILITATION OF CARGO.

INVESTIGATIONS

WORKING CLOSELY WITH INSPECTORS, IMPORT SPECIALISTS, CUSTOMS AIR OFFICERS, AND CUSTOMS MARINE OFFICERS ARE SPECIAL AGENTS FROM THE OFFICE OF ENFORCEMENT. THE EMPHASIS ON ENFORCEMENT AT CUSTOMS HAS CAUSED SPECIAL AGENT NUMBERS TO INCREASE FROM 400 IN 1981 TO OVER 1,100 TODAY. CUSTOMS SPECIAL AGENTS INVESTIGATE AND BRING TO PROSECUTION CASES IN A VARIETY OF FIELDS. THE MOST PROMINENT OF WHICH ARE NARCOTICS IMPORTATION, BANK SECRECY ACT VIOLATIONS, COMMERCIAL FRAUD, PORNOGRAPHY IMPORTATION, ARMS AND CRITICAL TECHNOLOGY EXPORT CONTROL, AND ORGANIZED CRIME RELATED NARCOTICS SMUGGLING ACTIVITY. THE MAIN PROGRAMS ARE DESCRIBED BELOW. IN EACH PROGRAM, TARGETING DEPENDS HEAVILY UPON THE DEVELOPMENT AND COLLECTION OF INTELLIGENCE.

ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF)

CUSTOMS PARTICIPATES WITH OTHER FEDERAL LAW ENFORCEMENT AGENCIES IN 13 CORE CITY TASK FORCES IN THE ORGANIZED CRIME DRUG ENFORCEMENT PROGRAM. CUSTOMS ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF) INVESTIGATIONS TARGET DRUG SMUGGLING GROUPS ENGAGED IN MONEY LAUNDERING.

IN FY 1988, CUSTOMS PLANS TO CONTINUE WITH CURRENT RESOURCE COMMITMENTS TO THE PRESIDENTIAL ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES. THESE SPECIALIZED INVESTIGATIVE TASK FORCES WILL CONTINUE TO DISMANTLE LARGE-SCALE DRUG SMUGGLING ORGANIZATIONS. TO DATE, CUSTOMS OCDETF AGENTS HAVE ACHIEVED EXCELLENT RESULTS. IN FY 1986, CASES INVOLVING CUSTOMS PARTICIPATION RESULTED IN 1,277 INDICTMENTS, 1,042 ARRESTS, 753 CONVICTIONS, $107,000,000 IN U.S. CURRENCY AND PROPERTY SEIZURES, SEIZURES OF 3,966 KILOGRAMS OF COCAINE AND 103 KILOGRAMS OF HEROIN, AND $5,000,000 IN FINES ASSESSED.

FRAUD PROGRAM

FOR SEVERAL YEARS, CUSTOMS HAS EMPHASIZED ITS FRAUD EFFORTS AGAINST ILLEGAL OR UNAUTHORIZED STEEL, TEXTILE, AND CLOTHING IMPORTS, AS WELL AS DRAWBACK AND TRADEMARK AND COPYRIGHT VIOLATIONS. THESE EFFORTS HAVE PRODUCED RESULTS IN TERMS OF PENALTY RECOVERIES AND PROSECUTION OF CRIMINALS. FY-87 IS RUNNING SIGNIFICANTLY AHEAD OF LAST YEAR'S TOTALS. THE FIRST THREE MONTHS OF FY-87 HAVE RESULTED IN 237 TEXTILE SEIZURES VALUED AT $18,006,315. TEXTILE FRAUD INVESTIGATIVE CASES AMOUNT FOR 33% OF ALL MAJOR FRAUD CASES TRACKED BY CUSTOMS HEADQUARTERS.

CUSTOMS IS WRAPPING UP ANOTHER MAJOR INVESTIGATION, "OPERATION BITTERSWEET", INVOLVING SUGAR DRAWBACKS. TO DATE, 46 INDICTMENTS HAVE BEEN OBTAINED, 30 ARRESTS MADE, 32 CRIMINAL CONVICTIONS OBTAINED YIELDING $372,000 IN CRIMINAL FINES AND $2,636,000 IN MONEY RECOVERED. IN ADDITION, CIVIL SETTLEMENTS ALREADY NEGOTIATED WILL YIELD MORE THAN $14,000,000. ANOTHER IMPORTANT CASE INVOLVES ORANGE JUICE IMPORTS.

AS NOTED IN PAST YEARS, CUSTOMS CONTINUES TO PLACE A SPECIAL EMPHASIS ON ALL STEEL, TEXTILE, AND WEARING APPAREL IMPORTS. SPECIAL FRAUD TASK FORCE OPERATIONS IN FY 1988 WILL CONTINUE TO DIRECT THEIR EFFORTS AGAINST ILLEGAL MERCHANDISE BEFORE IT ENTERS UNITED STATES COMMERCE. THE AUTOMATED COMMERCIAL SYSTEM (ACS) HAS GREATLY EXPANDED CUSTOMS COMMERCIAL INVESTIGATIVE CAPABILITY BY ENABLING CUSTOMS AGENTS AND IMPORT SPECIALISTS TO TARGET VIOLATORS BY CORRELATING COMMERCIAL, FINANCIAL AND ECONOMIC DATA WITHIN SELECTED "HIGH RISK" AREAS.

WITH DIRECTION AND ASSISTANCE FROM THE COMMERCIAL FRAUD COMMAND CENTER AT HEADQUARTERS, CUSTOMS PERSONNEL WILL CONTINUE TO PURSUE THOSE WHO PRESENT FALSE DOCUMENTS, USE COUNTERFEIT VISAS AND EXPORT LICENSES, USE THIRD COUNTRIES AS TRANSSHIPMENT POINTS, AND USE FALSE DESCRIPTIONS AND CLASSIFICATIONS.

FINANCIAL LAW ENFORCEMENT PROGRAM

CUSTOMS INVESTIGATIVE ATTACK ON NARCOTICS SMUGGLING ORGANIZATIONS USING PROVISIONS OF THE BANK SECRECY ACT HAS PAID EXCELLENT DIVIDENDS IN TERMS OF ITS IMPACT ON THE LARGEST SMUGGLING GROUPS OPERATING IN THIS COUNTRY. MULTI-AGENCY INVESTIGATIVE AND PROSECUTORIAL TEAMS, OPERATING UNDER THE LEADERSHIP OF LOCAL U.S. ATTORNEYS, ARE CURRENTLY ACTIVE IN MOST

CITIES WITH A HISTORY OF LARGE-SCALE CURRENCY MOVEMENTS AND CITIES MOST ACTIVE IN DRUG TRAFFICKING.

OPERATION BUCKSTOP, A 1986 CUSTOMS NATIONAL OUTBOUND CURRENCY INTERDICTION PROGRAM RESULTED IN 162 SEIZURES TOTALLING IN EXCESS OF $42 MILLION.

CUSTOMS CONTRIBUTION TO THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE IN 1986 INCLUDES; 1,042 ARRESTS; $46 MILLION IN CURRENCY AND OVER $61 MILLION IN PROPERTY SEIZED.

OUR FINANCIAL ANALYSIS DIVISION (FAD) IS THE NATIONAL CLEARINGHOUSE FOR ALL FINANCIAL DATA. THE DIVISION ANALYZES THE FINANCIAL CHARACTERISTICS OF CRIMINAL MARKETS AND ASSISTS IN DEVELOPING USABLE STRATEGIES FOR EXPLOITING CRIMINAL FINANCIAL PRACTICES. THE FAD IS ALSO THE SOURCE OF INTELLIGENCE, BOTH DOMESTIC AND FOREIGN, DEVELOPED AND ADAPTED FOR THE INVESTIGATIVE FIELD UNITS. DURING FY 1986, FAD IDENTIFIED 1,091 INDIVIDUALS AND 366 COMPANIES SUSPECTED OF LAUNDERING $1.2 BILLION DOLLARS.

EXPORT ENFORCEMENT

CUSTOMS COMPREHENSIVE EXPORT PROGRAM -- CALLED EXODUS --HAS THREE MAJOR OBJECTIVES:

TO ENFORCE THE ARMS EXPORT CONTROL ACT (AECA) WHICH PROHIBITS THE EXPORT OF MUNITIONS LIST CONTROLLED ITEMS -- ARMS, MUNITIONS, WEAPONS SYSTEMS --WITHOUT STATE DEPARTMENT CLEARANCE.

TO ENFORCE THE EXPORT ADMINISTRATION ACT AMENDED IN 1985 (EAAA) TO PREVENT THE ILLEGAL EXPORT OF

CRITICAL TECHNOLOGIES AND SENSITIVE EQUIPMENT TO FOREIGN COUNTRIES.

TO ENFORCE EMBARGOES AGAINST NICARAGUA, LIBYA, SOUTH AFRICA, NORTH KOREA, VIET NAM, CAMBODIA, CUBA, AND SYRIA, AS WELL AS A DEFACTO EMBARGO AGAINST IRAN.

IN CARRYING OUT THE EXODUS PROGRAM, CUSTOMS TARGETS ILLEGAL EXPORTS WHILE MINIMIZING THE IMPACT ON LEGITIMATE TRADE. THIS IS DONE THROUGH THE USE OF SPECIFICALLY TARGETED ENFORCEMENT OPERATIONS CONCENTRATING ON HIGHLY SELECTIVE CRITICAL EXPORTS, INCREASED FOREIGN INFORMATION, AND ADP GENERATED ANALYTICAL INTELLIGENCE. THE BASIC ELEMENTS OF THE EXPORT ENFORCEMENT PROGRAM ARE: INTERDICTION, INVESTIGATION, DOMESTIC AND INTERNATIONAL COOPERATION. COMBINED, THESE ELEMENTS PROVIDE NOT ONLY DETERRENCE, BUT ALSO A PROACTIVE INVESTIGATIVE APPROACH TO DETECT AND DISRUPT CRIMINAL EXPORT CONSPIRACIES. IN FY 1988, A WIDE RANGE OF EXPORT ENFORCEMENT INITIATIVES WILL BE CONTINUED: UNDERCOVER OPERATIONS, ENHANCED LIAISON WITH THE INTELLIGENCE COMMUNITY, INCREASED FOREIGN COOPERATION, AND, SUPPORT AND ASSISTANCE TO FOREIGN GOVERNMENTS IN THEIR OWN CONDUCT OF OPERATIONS DIRECTED AGAINST EXPORT VIOLATIONS.

SINCE PROGRAM INCEPTION ON OCTOBER 1, 1981 THROUGH FY 86, CUSTOMS EXODUS PROGRAM HAS BEEN RESPONSIBLE FOR OVER 5,220 SEIZURES VALUED AT OVER $350 MILLION, 726 ARRESTS, AND 490 CONVICTIONS. DURING FY 86 ALONE, THE PROGRAM RESULTED IN 802 SEIZURES OF MERCHANDISE VALUED AT $51.6 MILLION. THESE SEIZURES RESULTED FROM 1,062 DETENTIONS OF SUSPECT EXPORTS, RESULTING IN A HIGHLY FAVORABLE SEIZURE-TO-DETENTION RATIO OF 76%.

PORNOGRAPHY

THE PAST DECADE HAS SEEN SUBSTANTIAL GROWTH IN PORNOGRAPHY TRAFFICKING. BECAUSE IT IS A PROBLEM OF NATIONAL CONCERN,

CUSTOMS HAS STEPPED UP THE LEVEL OF ITS ENFORCEMENT. WE ARE AGGRESSIVELY INVESTIGATING PORNOGRAPHY CASES, ESPECIALLY WHERE LARGE VOLUME DEALERS, ORGANIZED CRIME, OR CHILD PORNOGRAPHY ARE INVOLVED. SINCE PORNOGRAPHY IS SMUGGLED INTO THE UNITED STATES ACROSS INTERNATIONAL BORDERS, CUSTOMS HAS A VITAL ROLE IN CURBING THE IMPORTATION OF PORNOGRAPHIC MATERIALS AND SEEKING PROSECUTION OF VIOLATORS OF CUSTOMS AND RELATED PORNOGRAPHY LAWS. TO ACCOMPLISH THIS, CUSTOMS, TOGETHER WITH OTHER FEDERAL, STATE, LOCAL AND FOREIGN AUTHORITIES, IS WORKING TO STEM THE FLOW OF PORNOGRAPHY IMPORTATION FROM THE SOURCE COUNTRIES. AS A RESULT OF CUSTOMS INVESTIGATIVE EFFORTS, MANY CHILD PORNOGRAPHERS HAVE BEEN IDENTIFIED AND ARRESTED.

CONCLUSION

CUSTOMS IS A MULTI-MISSION AGENCY. IT BEARS THE TREMENDOUS RESPONSIBILITY OF THWARTING TRADE IN ILLICIT NARCOTICS WHILE AT THE SAME TIME FACILITATING LEGITIMATE INTERNATIONAL TRADE IN MERCHANDISE. CUSTOMS PLANS TO USE THE RESOURCES AT ITS DISPOSAL AND THE MANAGEMENT INNOVATIONS DISCUSSED TODAY TO RECONCILE THESE TWO SOMETIMES CONFLICTING GOALS.

THIS CONCLUDES MY INTRODUCTORY STATEMENT. WE ARE AVAILABLE TO DISCUSS THE DETAILS OF THE REQUEST AND ANSWER YOUR QUESTIONS AND THOSE OF THE SUBCOMMITTEE MEMBERS.

COOPERATION WITH MEXICO

Senator DECONCINI. Thank you, Mr. von Raab.

I was in Mexico last weekend with the Arizona delegation. The Attorney General of Mexico, with whom we were meeting, told us that in 1986 the United States Government made a commitment to provide $1.5 million for a joint operation with the Mexican Government along the Southwest border. The Mexican Government was supposed to kick in a like amount of money for the operation.

He complained that the United States reneged on its part of the bargain and never put up the money. While he was painstakingly forced to scrape up his pesos, there was nothing forthcoming from us.

Can you give us any light on that? I was a bit caught offguard and I want to get back to the Attorney General. We did talk with the embassy staff down there, who had some mixed, and uncertain answers for us. I wonder if you folks know anything about it.

Mr. VON RAAB. From a Customs perspective, I am not aware of any commitment made with respect to Customs activities on the border.

Senator DECONCINI. With Mexico.

Mr. VON RAAB. With Mexico. There have been, over the years, efforts to set up joint operations, but money has never been discussed.

Senator DECONCINI. Do any of your other people know about it, or would you like to get back to us on it?

Mr. VON RAAB. I know pretty much everything that is going on with respect to Mexico. There was a flurry of——

Senator DECONCINI. They led me to believe that it was Customs, but he was not about to finger anybody. He said it is an agency that works very closely with our border, and it was civilian law enforcement.

Mr. VON RAAB. I know nothing about it.

Senator DECONCINI. You do not.

Mr. VON RAAB. No.

OMB BUDGET REDUCTIONS

Senator DECONCINI. According to your September 1986 budget submission to OMB, you originally asked for an overall budget of $1,060,-153,000 for the Customs Service. The President has recommended a budget of $899 million, a reduction of $160 million plus.

It appears that the President also cut your average positions back by about 1,700. Can you give us major areas where OMB cut back from your original budget submission last fall, including what specific cutbacks are going to mean to you if they should stick?

Mr. VON RAAB. There are two aspects to the budget reductions, one of which is the reduction started for the fiscal year in which we are operating. This is primarily a rescission of $38 million, in our "Salaries and expenses" account, which would equate to 1,485 full-time equivalent personnel positions. There is also a shift in funds for the air program, which I understand will be handled subsequently in a supplemental.

Senator DECONCINI. They cut you both in commercial and the interdiction programs?

Mr. VON RAAB. The two halves of our budget are salaries and expenses, which covers the full range of Customs employees, some of whom are in commercial activities, and the others of whom are in criminal or enforcement activities, and the "Operation and maintenance" account, which is the air program.

Senator DECONCINI. What is that going to do to you, if that should go through? What would you have to curtail?

Mr. VON RAAB. My reading of the situation, and maybe someone from the Department can do better—is that it does not appear that the air program reduction is going to have any impact on us, because the moneys that were removed from the budget have been requested to be delayed until fiscal year 1988 through a supplemental.

Senator DECONCINI. You have been advised of that?

Mr. VON RAAB. I would not say we have been advised, but that is what I anticipate.

OPERATION ALLIANCE

Senator DECONCINI. Last August, when the Attorney General announced the administration was finally catching up with Congress and moving ahead on the Southwest border, the committee also directed that an additional 438 Customs positions be put on the Southwest border. As part of the congressional mandate, the task force was formed.

Can you give the committee a status report on the Operation Alliance; tell us how the State and local people are participating, what they are actually doing, and tell us what your 1988 budget specifically has in it to continue the Operation Alliance?

Mr. VON RAAB. Some of the questions about Operation Alliance, I would ask maybe that Mr. Keating would answer. But I can certainly give you the Customs numbers.

Senator DECONCINI. That is what I am looking for. What does Customs put into it, particularly with the local people?

Mr. VON RAAB. Over the past 2 years, Customs has added nearly 950 personnel, most of whom have been placed in Alliance from its very inception, which was back in the initial stages in June.

Specifically in fiscal year 1987, we increased funding for staffing by $32 million.

Senator DECONCINI. How many people did that amount to?

Mr. VON RAAB. In 1987, it is 563, which is the number to which Senator Domenici refers.

Senator DECONCINI. And have they been filled?

Mr. VON RAAB. Nearly all of those have been filled or committed. Just to give you a sense of the overall Customs numbers, of which Alliance is a part—the Customs Service, right now, has on board 14,028 people. Another 1,542 positions have been committed.

Senator DECONCINI. How many, then, are devoted to the Alliance?

Mr. VON RAAB. How many positions, overall, are devoted to Alliance?

Senator DECONCINI. Yes; counting the 563—what do you have?

Mr. VON RAAB. I can tell you the additions made to Alliance. All of our employees along the Southwest border, working on the border, are devoted, in one way or the other, to the Alliance, because it is an effort to stop drugs at the border. The additions, as I said, in fiscal year 1987, were 563. In the later part of 1986, even before the drug bill was passed, we had added 384.

Senator DECONCINI. That is what I thought you had added—384 in——

Mr. VON RAAB. So a total of 947 have been added since June.

Senator DECONCINI. And all of those, or ostensibly all of those, are filled?

Mr. VON RAAB. They are either agents, investigators, enforcement specialists, inspectors, canine officers, intelligence analysts, or air crew.

Senator DECONCINI. And they are filled.

Mr. VON RAAB. There are still 49 positions in the air wing that there are no commitments for. That is out of 765. All of these other numbers are either filled or committed.

Senator DECONCINI. Either filled or going to be filled.

Mr. VON RAAB. The outside time for filled and trained and on the ground is January or February. The outside time for filled but not yet trained will be the end of this fiscal year. The outside time for committed will probably be within the next month or so. Does that help you?

STAFFING REDUCTIONS

Senator DECONCINI. Yes; it does. It is no secret that OMB did not approve any supplemental for Customs, for use as a pay raise or for the new Federal Employees Retirement System. The net effect is that Customs will have to absorb approximately $21.5 million in order to cover these two mandatory costs. What will be the effects on your 1987 and 1988 programs because of OMB's failure to provide supplemental funding? Can you tell us how much staff you might lose as a result of that?

Mr. VON RAAB. Approximately 1,485 positions. That is what the combination of the absorptions and the reductions come out to this year.

Senator DECONCINI. That is in 1987.

Mr. VON RAAB. Next year, an additional 513 will be decreased.

Senator DECONCINI. Five hundred and thirteen more.

Mr. VON RAAB. For 1988, in addition to the 1,485.

Senator DECONCINI. We are talking 2,000, then, by 1987.

Mr. VON RAAB. Just about.

Senator DECONCINI. The President proposed a rescission of $38,945,000, and 1,485 positions—your narrative on page 13 of the budget justification seems to indicate that all proposed cutbacks will come at the expense of the inspection and control in the commercial activities of Customs. Is that accurate?

Mr. VON RAAB. We have not done a very refined review, but there is a commitment that has been made by OMB which we will fulfill. If these reductions are not to take place in the enforcement area, that will necessarily mean that we will have to take these reductions out of commercial——

Senator DECONCINI. Obviously that would cause you a problem, too.

Mr. VON RAAB. It would certainly reduce the staffing available in those areas.

Senator DOMENICI. Mr. Chairman, would you yield on that?

Senator DECONCINI. I would be glad to yield.

Senator DOMENICI. Somewhere, I have information that the justification for that without harming the Service is that these additional resources are completely negated by the use of automation and selectivity. Is that possible?

Mr. VON RAAB. I am not sure of the words, "completely negated by the use of automation and selectivity." Without question, the increased use of automation and selectivity enables us to do our job with fewer people. Therefore, we would have to take up the slack in that area through the use of increased automation and selectivity.

Senator DOMENICI. Thank you, Mr. Chairman.

AUTOMATED COMMERCIAL SYSTEM

Senator DECONCINI. Actually, you have to cut about $1,041,000 in the automated commercial system.

Mr. VON RAAB. That is right, but we have put over $115 million into that over the past 5 years, so that as a percentage is not a——

Senator DECONCINI. Because it is small, you will not really lose any major capacity.

Mr. VON RAAB. That is right, and we have made substantial expenditures in that area, for example, last week, I authorized over $4 million to go into that automation area.

Senator DECONCINI. How do you approach the problem that is raised by some of your employees along the border that this system is a good profile system of your computer system on these checks—and it can be overridden by the inspector, there. I understand—but if you cut back on inspectors because you have this great system that lets them through and profiles them, where are you going to find inspectors when all of a sudden an inspector says, gosh, I want to override and look at these three shipments, or these four, five, or six trucks—to get the people to do that? Is there a backup of some nature, or some pool, or some way?

Mr. VON RAAB. There are a substantial number of inspectors at any crossing, and we were just——

Senator DECONCINI. Has not this cut inspectors, this automated program——

Mr. VON RAAB. Our number of inspectors has not decreased. We are actually several hundred above the numbers of inspectors that we have had in the past. So our numbers of inspectors are higher than they have been for any period.

Senator DECONCINI. But are not those increased inspectors due to go to ports of entry? I am talking about trucks coming across Nogales, Brownsville, El Paso, or someplace like that.

Have not the increase in inspectors gone other places, or have they gone to those auto and truck crossings?

Mr. VON RAAB. For example, on the Southwest border over the past 2 years, we have increased inspectors by 264.

Senator DECONCINI. All along that border.

Mr. VON RAAB. That is right. And so, many of those inspectors have gone to commercial areas, although our first priority has been to make sure——

Senator DECONCINI. So the theory of automation in doing these profiles and letting these trucks go through because they do not have to be inspected has not reduced the capability to inspect, if indeed an agent decides that he wants to override for whatever reason.

Mr. VON RAAB. Not at this point. As a matter of fact, our selectivity on the southern border, just to be perfectly straightforward about it, is still in the formative stage. Our selectivity programs are much more advanced in New York or in other parts of the country where the commercial traffic is carried out on a more sophisticated basis.

OPERATIONS AND MAINTENANCE RESOURCES

Senator DECONCINI. On February 6, President Reagan submitted a budget amendment that called for postponing $32.1 million of O&M air money for fiscal year 1987. This proposal would effectively halt Customs' plan to go ahead with the $22.2 million for command and control center development, $6.6 million for modification of C–12 aircraft with drug interdiction radar, $3.3 million for O&M for the new Customs E–2C's, and other small amounts for spare parts.

I would like to go over this list with you. Why would you want to postpone O&M money for the E–2C, in view of the fact that the Navy delivered your two E–2C's to you February 7 in San Diego. How will you take care of these significant assets and keep them up to the Navy specifications on O&M money?

Mr. VON RAAB. Mr. Chairman, I have never made a tremendous effort to study some of the niceties and refinements of the process in which I live. My understanding of the Customs situation right now is that we are continuing to spend those moneys. The administration has not ordered us not to spend them, and there is some rather arcane exercise going on over whether they will be contained in a supplemental, or whether they will be deferred or something else. But as a practical management——

Senator DECONCINI. But you are moving ahead.

Mr. VON RAAB [continuing]. Matter, we are continuing our efforts.

Senator DECONCINI. Including the Command, Control, Communications, and Intelligence [C^{3}I] Program, and particularly the Oklahoma City national command center—you are going ahead.

C^{3}I PROGRAM

Mr. VON RAAB. Thank you for bringing that up. My statement was too broad. There is an issue with respect to that particular facility in Oklahoma, and I believe Mr. Keating may have the most recent information on that.

Mr. KEATING. Mr. Chairman, to attempt to answer your question and make a statement about the future of the C^{3}I programs, we anticipate that by the end of this calendar year, both the command and control facility in Miami and the command and control facility in March Air Force Base in California will be up and in operation.

As you know, the marine facility in Houston is already up and operational, and will be fully staffed out and completed by the end of this year. The Oklahoma City facility is affected by this $22.2 million proposed postponement. I have talked to Congressman English about it and indicated to him that with a letter from you speaking on behalf of the committee, and a letter from Congressman Roybal speaking on behalf of his committee, John Rogers, our Assistant Secretary for Management, and I, would go to OMB and inform them that we have no choice but to go ahead with Oklahoma City.

Senator DECONCINI. And we have sent that letter.

Mr. KEATING. That is correct.

Senator DECONCINI. And you have gone ahead and done that?

Mr. KEATING. We do not yet have the letter from Congressman Roybal. I talked to Congressman English yesterday, and he said he would have that letter forthcoming as quickly as possible. Once that is done, we will visit Oklahoma City and follow the mandate of the Congress.

ARIZONA AEROSTAT

Senator DECONCINI. Let me ask one more question. I have more questions, but knowing other Members also have questions, I will yield after one more question for a while.

The continuing resolution provided $4.2 million to allow completion of the Arizona aerostat at the Fort Huachuca Army Base. This project was initially funded in the fiscal year 1986 bill, is scheduled to be completed by October of this year, and operational December 1987. Can you give the subcommittee a brief status report, Commissioner, on this important radar system, and any details as to the timetable—are we ahead, on that timetable? What can you tell us about it, please?

Mr. KEATING. Mr. Chairman, with your permission I will ask Bill Rosenblatt, our Assistant Commissioner for Enforcement, to respond to that question.

Senator DECONCINI. Mr. Rosenblatt, welcome.

Mr. ROSENBLATT. Thank you, Senator. The aerostat and radar systems are currently in production, based on a letter contract between the Customs Service and the awardee, Ecomp, which is a subsidiary of Westinghouse Corp. Site development by the U.S. Corps of Engineers is currently in progress; work is being done. The bottom line is that the site preparation should be completed by July 31, 1987. We expect to have the aerostat itself tethered and available for testing October 1, 1987; and, if all goes well, fully operational January 1, 1988, sir.

Senator DECONCINI. You are pretty well on the timetable right now?

Mr. ROSENBLATT. We are satisfied.

Senator DECONCINI.Thank you, Mr. Rosenblatt.

Senator DOMENICI. These Italian names are hard to pronounce. We just switch back and forth. You used to get my mail, and now I get yours, or who knows.

COLUMBUS PORT OF ENTRY

Commissioner, the ports of entry out there in the Southwest, with the exception of a couple of new ones, seem to me to be—I do not really have a good word to explain them. It seems to me that for a country like ours, that they are abominable.

I went to the one at Columbus, and I will ask you shortly what its status is, and I really could not believe, Commissioner, that it was a U.S. port of entry, albeit not so heavily used.

Mr. Chairman, would you believe that the Customs officers there, if they wanted to look underneath a truck, they had to crawl under. They

did not even have a jack. They did not even have a pit. You could have dug a hole—you know how they do in the old-fashioned filling stations—so you could drive it up there and at least walk under it.

So let me just be specific. What is the status of Columbus, do you know?

Mr. VON RAAB. Yes, Senator; I am sure you know some of these facts, but perhaps I can just run through them all for the benefit of those who are not as close to it as you are.

There was $2.7 million appropriated to GSA in 1987 no-year funding to build a new station.

An architectural engineering firm has been chosen to design the facility, and I assume at this point a formal contract award has been made or will be made within a week or two.

Land is expected to be purchased from Luna County in June 1987.

The design, I understand, should take about 6 months, 60 to 90 days for competitive procurement for construction firms.

I understand groundbreaking should begin early in 1988, and the border station should take 1 year to construct.

Therefore, the estimate is that the facility would be completed in early 1989.

Senator DOMENICI. Do you know of anything that Congress can do to expedite that project, or is that a normal process that we have to live with?

Mr. VON RAAB. I am a little hesitant to get involved in GSA's business, but I know that pressure from Congress usually can cut these schedules down as much as 50 percent.

Senator DOMENICI. Thank you. We will try that. We have tried about everything else.

LOW-LEVEL RADAR STUDY

Last year's report on the Treasury-Postal Service-General Government appropriations bill, earmarked $235,000 for you to study the application of a low-level radar detection system developed by Los Alamos National Laboratory, which was new and innovative. What is the status of that study?

Mr. VON RAAB. We know this in the Customs Service as Representative Skeen's idea, and an interagency agreement between Customs and the Department of Energy concerning Los Alamos is being worked on right now. We anticipate that the startup date for this study should be within a week or two, and should take approximately 15 months to complete.

What is supposed to come out of this will be a prototype ground-based microwave aircraft sensor.

Senator DOMENICI. So that is moving.

Mr. VON RAAB. Yes.

PORTS OF ENTRY MODERNIZATION

Senator DOMENICI. With reference to ports of entry, I alluded to one in my State, and in a general way, the horrible state of ports of entry. Would you generally agree that we have a long way to go in order to modernize the ports of entry, even if we are only speaking of the Southwest border, El Paso, New Mexico, parts of Arizona and California?

Mr. VON RAAB. Yes; as traffic has increased along the Southwest border, it has become apparent that many of the facilities are no longer adequate to the traffic that is coming across. Our Office of Inspection and Control is actually reviewing the facilities across the Southwest border, because it is no secret that Customs is under a lot of pressure, not only to enforce the law better, but to ensure that cargo moves through those facilities as quickly as possible.

Therefore, we are taking a very good look at those facilities. There are lots of problems with them. In many cases, the passenger traffic will hold up truck traffic, or vice versa, because of the lack of sufficient lanes. In other cases, the working conditions for Customs and Immigration officials are less than satisfactory, and as you pointed out, in many cases the kinds of facilities are not adequate to do the inspections necessary, so rather than being able to pull a truck off to the side and inspect it properly, you have to stop it in the middle of the road and inspect it there, and that slows everything up.

So the answer is, yes, I think a good look should be taken at the facilities across the border, and I am sure that a lot of improvement in both enforcement and facilitation of cargo movement would result.

Senator DOMENICI. Mr. Chairman, I just might suggest, it seems to me that not only with reference to drug interdiction but with reference to commerce, we are here encouraging the twin plan concept, encouraging trade with Mexico. We have just imposed new customs fees.

I wonder if you might consider as part of our contribution this year some kind of a mandate to the Department that they take the entire border and do an assessment and give us a cost of modernizing our border facilities.

Senator DECONCINI. Let me tell the ranking member. My friend, we just asked and received from GSA a total assessment of the border facilities, of all the inventory of what they are, and I hope there are some details and some pictures on that.

I want to work with the ranking member to maybe introduce some long-term or short-term legislation. I agree with the Senator from New Mexico that it is appalling when you drive up from our good friends to the South to our borders and see these terrible places—no place to have any facilities, to use a bathroom, no shade, dirt roads, and garbage. It really is a terrible situation. Even our personnel, as you have seen, have to go out and down the hall to another building if they want to take a 5-minute break or get a cup of coffee.

Senator DOMENICI. Frankly, I went to two that were bad on purpose because we needed to fix them up, but I guarantee you if OSHA had gone there——

Senator DECONCINI. It would have shut them up.

Senator DOMENICI. It would have shut them up. There are at least three or four requirements that——

Senator DECONCINI. Senator, I am prepared to work with him and, if necessary, to do some legislative work here on this committee, if we can come up with a proper scheme and a way to do that. I am interested in working on some long-term solutions, so I thank the Senator for raising the issue.

SANTA TERESA PORT OF ENTRY

Senator DOMENICI. Thank you, Mr. Chairman.

Commissioner, what is the status, for purpose of the future, now, of the Santa Teresa, NM, port of entry, in general terms? Where is it, with reference to legal issues? If you need to check it out and supply that information for the record, it is all right with me.

Mr. VON RAAB. If you will permit me, Sam Banks, who is our Assistant Commissioner for Inspection and Control, is responsible for this among other areas.

Senator DOMENICI. Mr. Banks?

Mr. BANKS. We have basically approved the crossing for Santa Teresa. We are simply waiting now for arrangements that have to be made on the Mexican side, for roads, and other construction. This has to be completed by the individual who has requested it as a user-fee type airport. But we are prepared to——

Senator DOMENICI. So if the user arrangements are completed, and some physical improvements on the other side, the technical aspects of it being an airport port of entry are all completed.

Mr. BANKS. Yes, sir.

INSPECTOR POSITIONS IN NEW MEXICO

Senator DOMENICI. Mr. Chairman, I am going to submit a number of others, but I just want to ask one. There appear to be 16 authorized Customs inspector positions in New Mexico, 2 in Albuquerque, 2 at Antelope Wells, and 12 at Columbus. Are these all filled, and do you think these numbers are adequate for the inspection services that are now in place?

Mr. VON RAAB. Of the 17 authorized, 16 are filled, and the other 1 is empty, solely because of——

Senator DOMENICI. Is this an adequate number, or are additional personnel necessary?

Mr. VON RAAB. This is the number to which we raised it as a result of the increases, and I cannot comment on the Santa Teresa issue and how that will affect it, or the change in the Columbus facility, both of which could result in additional personnel. However, given present facilities and present workloads, I would say that the number is adequate. I think that is a fair description of——

Senator DOMENICI. Mr. Chairman, I am going to ask, of every department, the one general question. With your permission I will just submit it through your staffer.

Senator DECONCINI. We have been doing that in your absence, too, Senator.

TWO-YEAR APPROPRIATION

Senator DOMENICI. What we are going to ask, Secretary Keating, and Commissioner, is whether you support a 2-year budget and 2-year appropriation cycle, as compared with the one we have now; and then for you to give us an estimate of how much of your budget is recurring from year to year, in terms that we could understand.

In other words, knowing just how much of your time is spent coming back each year asking for the same thing almost over again, gives us some idea of whether a 2-year appropriation makes sense. We will submit that question to you, and if you are against the 2-year budget, we ask that you would state why, so we would have some understanding as to why.

Mr. Chairman, the other questions I will leave with staff to be submitted for the record.

Senator DECONCINI. Thank you, Senator.

Senator D'Amato?

CUSTOMS RESOURCES

Senator D'AMATO. Thank you, Mr. Chairman. Commissioner von Raab and the staff. Let me say at the outset, Mr. Chairman—I think that the Commissioner and the people of Customs have done an outstanding job. I think that the administration, and OMB in particular, have done a terrible job.

I think that we ought to be ashamed of ourselves making the kinds of promises that we do, to the people who work in the Service, to the people of the country, talking about our commitment to wage a real battle against the drug scourge, and against those who traffic in drugs and bring them over our border. If anything the border is as porous as ever.

While we seem to be moving forward in one direction, passing a bill that increases the level of Customs service, and the number of people in October, and providing the kinds of resources that will make possible an advancement in the Service, we then rescind that and offer what would be a 12-percent cut, or over $100 million, and a reduction of almost 2,000 personnel.

It is illogical, it is without heart, and it certainly is without mind. It is totally lacking. So, Mr. Chairman there are just a whole host of areas where this Senator believes—if the budget proposals are accepted—we are not going to be able to meet the mandates, and even the operational standards that you have in place now.

You are not going to be able to look at the increased cargo levels coming in with personnel reductions. The nonsense that is contained in the budget, which says that we are going to make up for these manpower reductions as a result of automation, is just that; it is nonsense.

I have to tell you, Mr. Chairman, that I am deeply concerned about this, and I am also concerned that we do not hurt the morale of those people in the area. They do a terrific job. The sad situation is that we find this not only in Customs, but we find it in other areas of law enforcement that, with a coordinated effort, could really be so effective. We find it in the drug enforcement agency, the same kind of thing. We find it in the Immigration and Naturalization Service.

We have a new immigration law which is going to put, if anything, greater pressures on all these services. And yet we are moving in the wrong direction, and it is not even economically sound policy.

POLICY QUESTIONS

We introduced a new user fee, which will raise hundreds of millions of dollars more, and yet there are hundreds of millions of dollars that are totally unaccounted for, inexplicably. It is estimated we will raise over $800 million in 1987–88, and there is about $305 million that no one accounts for, and OMB just continues its merry way.

What we have is a situation where the President has made clear his intent to wage an aggressive war and to give the resources to wage that war against drugs, and secure our borders. But it is the fallacious thinking of OMB that once again continues to muddy the waters.

I would like to say, Mr. Chairman, coming from someone who is supportive of our President and this administration, I think that we are doing a less than adequate job. I have a number of questions that I would like to submit for the record, but I would like to——

Senator DECONCINI. Without objection.

Senator D'AMATO. Thank you, Mr. Chairman.

I would like to touch on—you know, this gets so frustrating you wonder why you are raising these questions because it is a totally frustrating experience. I have been watching it now for about 6 years plus, and it has not gotten any better. If anything, we are sliding back faster with the manipulations of OMB.

I must say that it seems to me that the Attorney General should be coming to the fore much more than has been the case. When I say the Attorney General, I am talking about the fact that although Customs is under the Treasury Department, the interrelationship between those men and women who are serving in Customs with the other law enforcement areas is indispensable.

So I am saddened by what I see as a lack of commitment to the incredible pressures that exist and are, if anything, increasing. I will submit, Mr. Chairman, those questions for the record; but I could not be true to myself or to the people back at home whom I represent, or those who are in the field working valiantly, if I did not say these things.

RESCISSION

It seems we take a step forward, and then right after that election we take four steps backward. If it is not a political ploy, then I would think that OMB and some others who are in the position would stop these silly rescissions, these attempts at deferrals, these indications of intentions to make requests for deferrals, the browbeating behind, the missing memos with respect to who said what about deferrals for the Air Interdiction Program.

It borders on baby games. We had a better thing in the little village that I represented for many years, as opposed to OMB and Treasury, in playing games. Who ordered the rescission, or was it a rescission, or was it a deferral? Did they really do it, and is there now a memo superseding the memo which called for the air interdiction deferrals, and what are they operating on?

The poor Commissioner, he cannot come forward. The next thing we know, the big boys will be calling him and asking him. You remember when he talked about Mexico and the corruption that exists there. We make believe that doesn't exist. They are a bunch of crooks. They are a bunch of robber barons down there. And every person who has ever served has come out as a millionaire, and they are wondering why they have problems. But we are supposed to make believe that does not happen.

He did not say this, and so I do not know whether George Shultz or the Attorney General is going to call me in. But he was right.

Senator DECONCINI. I can see you are worried about that.

Senator D'AMATO. So, Mr. Chairman, I thank you for your indulgence in allowing me to share some of these thoughts with you.

Senator DOMENICI. A strong letter follows.

Senator DECONCINI. Senator D'Amato, you are one who does not feel like opening up today as you usually do.

Senator D'Amato, I appreciate your forthrightness on the frustrations that many of us have gone through. I expect the men across the table here have a few of those, too.

In any event, I am glad the issue has been raised, particularly about Mexico, and I compliment the Commissioner many times on that, and only hope that he can maintain his steadfastness on that problem, and these other problems.

C³I CENTER COORDINATION

In any event, Mr. Commissioner, back to the nuts and bolts here. Customs has come under fire from a few Senators and from the Coast Guard for not cooperating with Coast Guard, or coordinating your site selections of the C³I center. You have also been criticized for not coordinating your C³I efforts with the Department of Defense. The drug bill and the continuing resolution makes Customs the lead agency for the C³I; but they both call for coordination with the other agencies.

I understand that the only remaining issue between the two agencies on C³I is a matter of so-called joint operations. You and Secretary

Baker have one definition of joint operation—each agency controls its own assets; and the Coast Guard has another—rotating control of all assets of both agencies.

Quite frankly, I agree with your definition, and would support it in any way I can. Would you tell us where this is, and what is the remaining obstacle with Coast Guard?

Mr. VON RAAB. I can briefly discuss my conversations with Coast Guard, and then Mr. Keating can comment on the policy with respect to this.

Admiral Yost and I have had a number of conversations over the past few months, and we have between us agreed on the location of the C^{3}I in Miami, which is at the Coast Guard Center at Richmond Heights. We have agreed on the Bahamian task force, of which you are aware. And we have agreed that the issue of the command and control between Customs and Coast Guard of the C^{3}I's did not need to be further defined at this point.

Senator DECONCINI. The C^{3}I——

Mr. VON RAAB. The command and control issue did not need to be further defined at this point.

Senator DECONCINI. It is defined to your satisfaction?

Mr. VON RAAB. It is defined to my satisfaction. I am not saying that Admiral Yost agrees with me, but we did not feel that it was necessary at this point to argue further over this.

Senator DECONCINI. What does that mean? Does that mean that the C^{3}I is going to be operational, without any more problems, or what?

Mr. VON RAAB. The Customs Service, with the cooperation of the Coast Guard, is moving forward to design and establish the C^{3}I's. The one in the West is in no question whatsoever.

Senator DECONCINI. Right, I am talking about the one in Florida. And is that satisfactory to you, now, the way the C^{3}I in Florida is going to be done?

Mr. VON RAAB. We are working with the Coast Guard in the design and building of the C^{3}I. The issue of who will come in control, as far as I am concerned, is settled, because I understand Secretary Baker's position, and I have read the law.

I do not want to speak for Admiral Yost. All I can say is that the last time I spoke to him about this, he did not feel it was necessary to go into it further.

Senator DECONCINI. Mr. Keating, help me—would you interpret what the Commissioner said.

Mr. KEATING. He did an excellent job, Mr. Chairman.

Senator DECONCINI. Did he say that he is going to control it, Customs is going to control it under the law; or did he say that the admiral, the Coast Guard is going to control it; or that the Coast Guard is going to get its way and change controls on and off, and we are going to ignore the law? Can you help us?

Mr. KEATING. Mr. Chairman, let me say at the outset, and Mr. von Raab has been emphatic on this point—that what we intend to do always is to follow the mandate of the Congress.

Unfortunately, in this area we received several conflicting messages. For example, one message, in the report language, I believe, indicated that the design, establishment, and location of the C³I centers was to be determined jointly by Coast Guard, the National Narcotics Board interdiction system, the Commissioner of Customs, and possibly one other agency.

By the same token, we had understood that the exclusive control of that C³I center was to be the responsibility of the Customs Service.

So, Mr. Chairman, because of that mixed message we concluded first that it was in the interests of this country to have the Coast Guard a vital player in the antidrug effort, because the Congress had given them assets for that purpose—C–130 assets as well as Falcon jet assets.

So we brought together both parties, and concluded, following consultation with Secretary Baker, Secretary Dole, Secretary Taft, and the Attorney General that first the Coast Guard would be brought into this mix as a full player to determine the design, location, and establishment of the C³I center.

However, once that design, location, and establishment was determined, the operation of that center would be the exclusive responsibility of the Customs Service, as we had understood the law required. So the Customs Service will operate the center.

Secretary Baker agreed with the other parties that there would be in effect a joint command in the sense that each would order up its own assets, and each would have a joint watch officer. We feel that is a satisfactory solution. If there is a problem, we will attempt to address it. Obviously, whatever assistance the Congress wishes to provide in that mix will be appreciated, but we hope that we do not have a problem.

The intention of this Department and of the Customs Service is to follow the mandate of the Congress and make the system work.

Senator DECONCINI. So it is safe to say that you are following the chapter IV of the Department of the Treasury, the continuing resolution, which indicates exclusive control of the U.S. Customs Services.

Mr. KEATING. That is correct.

Senator DECONCINI. Then you have also filed report language regarding the coordination with other agencies and the Coast Guard.

Mr. KEATING. Yes; and if I may postscript what I said, Mr. Chairman, I believe—Mr. Rosenblatt can correct me, if I am wrong—but I believe that he has met on a monthly basis, since November, on a committee working on the C³I, and the Coast Guard has been a vital player in that, as well as members of the staff of Senator Nunn, and, I believe, another member who was especially interested that the Coast Guard not be frozen out. We had never intended to do that.

Senator DECONCINI. I know that you had not, I believe that you had not, and I am glad. I compliment you, Mr. Keating, Mr. Rosenblatt,

and the Commissioner, for working this out, because I believe the Coast Guard is interested in this whole effort too. It is so darn clear to me what the law said, and as I told Admiral Yost, maybe we made a mistake—I do not know. But that is the law; we would sure like to see it come about, and I am glad you have worked it out.

E–2C'S

Mr. KEATING. As you know, Mr. Chairman, two E–2C's are flying in the Southeast——

Senator DECONCINI. As Coast Guard assets.

Mr. KEATING. As Coast Guard assets, as mandated by the Congress. Falcon jets will be flying as Coast Guard assets, as mandated by the Congress. What we are trying to do is bring all of those assets to bear in a common and united front against the common enemy, and I think we are being successful.

Senator DECONCINI. Do you have—Mr. Rosenblatt or Commissioner—Customs officers on any of those planes? Is that part of the coordination——

Mr. VON RAAB. On the Coast Guard E–2C's.

Senator DECONCINI. On the Coast Guard E–2C's. Will there be any exchange of personnel, or have you not gotten that far yet?

Mr. VON RAAB. We have not gotten that far. First of all, you only have two men on one of the E–2C's, and so there is not a lot of room to do that.

Senator DECONCINI. Yes; they are crowded.

Mr. VON RAAB. Although you could put more on, that is not the plan right now. As Mr. Keating indicated, Customs is taking the position, supported by Treasury, that we will operate the centers, we will mount a watch for our assets, and there will be a joint watch by the Coast Guard. And that—I am trying to explain what I said before—is where I left it with Admiral Yost. I am not saying he agreed with me, but he said that he would not pursue the matter any further.

Senator DECONCINI. Thank you, and my compliments. Hopefully we have gotten that behind us and can go ahead with the task that you have.

Does the Senator from New Mexico have any questions he wants to go into. If he does, I have a number of questions, and then you can go ahead.

Senator DOMENICI. I would like to do one New Mexico one, and then I would like to ask you whether you want to go into the Custom user fee situation under the Reconciliation Act, or would you like me to?

Senator DECONCINI. No; you go right ahead.

Senator DOMENICI. I think it is very, very important we get that one cleared up.

Senator DECONCINI. Right.

Senator DOMENICI. But let me first ask the Commissioner, with reference to the aerostats that were authorized in the Anti-Drug Act, will one of those be placed along the New Mexico part of the Southwest border, or are they all going to west Texas.

Mr. KEATING. No; we are looking at Deming as a location for one of the aerostats. We are working with the Air Force in the location of these, because they are obviously more expert than we are, but Deming is one of the final locations that we are looking at. I think the likelihood is that unless something else comes up, one of them will be placed in the Deming area.

Senator DECONCINI. Would the Senator yield?

Senator DOMENICI. Indeed.

Senator DECONCINI. Would you mind if maybe the Commissioner just gave us a rundown on the status of all these aerostats in the Southwest, including New Mexico. We know about the Arizona one, but could somebody tell us briefly where they are all going to go, and what the time schedule is?

Mr. KEATING. I will ask Mr. Rosenblatt to run through that. He has all the details on the aerostats.

Mr. ROSENBLATT. We work closely with the U.S. Air Force—and may I pause here for a moment, Senator—we cannot compliment the U.S. Air Force and their assistance on this particular project enough. They have conducted an evaluation, and the sites that they have indicated to be most strategically placed are Warfield, Comstock, Elephant Mountain in Texas, Deming, NM, as was mentioned by the Commissioner and Child's Mountain, AZ. We are going to have to do site surveys on these locations in the future.

The U.S. Customs Service, as well as the Air Force, have agreed upon establishment of an aerostat joint program office here in Washington, DC, and three Air Force personnel will be hooking up with Customs to proceed aggressively in establishing these aerostats.

Senator DECONCINI. Excuse me, Mr. Rosenblatt—is that total proposed sites, or have they already zeroed in on where they should go?

Mr. ROSENBLATT. That is where they should go. However, as you well know, with respect to Fort Huachuca, there are certain environmental assessments.

Senator DECONCINI. That you have to go through.

Mr. ROSENBLATT. We must go through that.

Senator DECONCINI. Sure.

Mr. ROSENBLATT. Now if something were to come up, we would immediately let you all know of any change from what we have stated here today.

Senator DECONCINI. Can you give us those locations again a little slower?

Mr. ROSENBLATT. Surely. Be glad to. Moore Field.

Senator DECONCINI. Where is that?

Mr. VON RAAB. McAllen, TX.
Senator DECONCINI. OK.
Mr. ROSENBLATT. Comstock.
Senator DECONCINI. OK. Where is Comstock? Texas?
Mr. VON RAAB. Yes; that is a town in Texas.
Mr. ROSENBLATT. Elephant Mountain, TX.
Mr. VON RAAB. That is in the Big Bend area.
Mr. ROSENBLATT. Deming, NM.
Senator DECONCINI. I know where that is.
Mr. ROSENBLATT. And Childs Mountain, AZ.
Senator DECONCINI. OK, thank you.
Senator DOMENICI. I know where that is.
Senator DECONCINI. You are better off than I am.
Mr. VON RAAB. This is rather a localized committee, at this point.
Senator DECONCINI. So as far as you are concerned, you are moving along on line on them.
Mr. ROSENBLATT. I feel we are right where we are supposed to be. As soon as we can get the Air Force and the Customs personnel together, we will see where we can accelerate this even more.
Senator DECONCINI. I thank the Senator for yielding.

USER FEES

Senator DOMENICI. Mr. Chairman, I would like to talk a little bit with both the Commissioner and the Secretary about the Customs users fees. Can we talk about it a little bit, let me just give you what I understand, and ask you a few questions.

Under the provisions of the Omnibus Budget Reconciliation Act of 1986 [OBRA], Customs ad valorem fee receipts are available, subject to appropriation, solely for salaries and expenses incurred by the Customs Service in conducting commercial operations.

In addition, these receipts, along with the receipts from passenger vehicle processing fees, mandated in the Omnibus Budget Reconciliation Act of 1985 [COBRA], are to have been placed in a dedicated Customs user fee account identifying the amount of receipts available for appropriation.

In addition, any processing user fees not used to offset overtime costs are to be available only for appropriations for Customs commercial activities.

Now, I have tried my best to interpret both COBRA and OBRA, and I have concluded that that is what it says. Do you agree?

Mr. KEATING. Senator, if we can get our act together here, we will respond.

Senator DOMENICI. Well, I tell you, before you get your act together, I would like to know how the answer is going to come out. No; go ahead.

Mr. KEATING. We have not had a chance to ask. I am going to ask Jill Kent to start.

Senator DOMENICI. Go ahead.

Ms. KENT. Senator, I understand the issue you are referring to. I believe what you are saying is that you think the law requires that these fees be deposited in the same account, and that anything not needed for overtime from COBRA would be available for appropriation, for Customs commercial operations. Is that your question?

Senator DOMENICI. That is my question and also what I understand the intention of the two reconciliation bills to be.

Ms. KENT. Yes, sir; the legal interpretation by both Treasury and OMB was that the COBRA money was available to reimburse the "Salaries and expenses" account for overtime, and was available to the extent needed without an appropriation act.

The OBRA money required an appropriation act, and was limited to what was in such appropriation language; that, therefore, they should be funded out of different accounts, although clearly they are both deposited in receipt accounts in the Treasury.

Whether or not that legal interpretation is correct, I do not know. I believe that the lawyers from the executive branch are planning to get together with the Senate Finance Committee to address it. I believe it was a perfectly legitimate and good faith legal opinion, and there was not any attempt to frustrate the intent of the Congress on that.

Should it be determined subsequently that it was an incorrect interpretation, I believe we could correct it in future budget requests.

Senator DOMENICI. So what you are saying is that you agree with the presentation of your budget as mandated by OMB, that in good faith you asked the lawyers, and you did what the lawyers said. Is that basically it?

Ms. KENT. Yes, sir; there was no attempt at all to misrepresent this. But I would admit that your interpretation makes as much sense as ours.

USER FEES RECEIPTS

Senator DOMENICI. Did Customs propose that user fees receipts collected in fiscal year 1987 be used to either reimburse or increase the cost of Customs commercial operations in fiscal year 1987, does anybody know?

Mr. VON RAAB. We did not make a formal request. I think we were going to ask for legal changes that you might suggest, but I gather that you would go back to your lawyers, and if the process is right you would have to then go to OMB and get their permission for the lawyers to give you the opinion on how to change it.

Ms. KENT. Well, sir, I believe discussion is planned between the executive branch and both the Appropriations subcommittee and Senate Finance Committee, with the staff and attorneys. Hopefully we will be able to negotiate this without any need for resorting to something more formal, but should there be a need, we would go back to our counsel, and ask for a formal opinion.

Senator DOMENICI. The way it is being interpreted, Mr. Chairman, is that part of this is not being reflected in the appropriations account that comes to this subcommittee for expenditure by this committee for Customs activities. And that is a significant amount of money.

Senator DECONCINI. Do they know when they are going to resolve this, and when they are going to meet?

Ms. KENT. I do not know that a meeting has been scheduled. I know our lawyers have met with OMB, and present lawyers have met.

Mr. MILLS. Tomorrow.

Ms. KENT. Are they meeting tomorrow?

Senator DECONCINI. And how soon after do you plan to meet with your folks? Do you know?

Ms. KENT. Considering the level of congressional interest, very soon.

Mr. KEATING. We agree it needs to be resolved immediately.

Senator DOMENICI. Mr. Chairman, there were some questions on the same subject, but they had to do with their estimates of moneys to be received into these accounts. I think maybe we will just submit them, and ask them to submit their estimates for the record. Thank you very much, Mr. Chairman.

Senator DECONCINI. I want to thank the Senator for raising that issue because it is vital that we do resolve it, and I thank Mr. Keating for his obvious determination to get to it and to get this behind us.

P-3 RADAR MODIFICATION

Mr. Commissioner, the continuing resolution directs you to proceed with the development of at least one P–3 aircraft modified with APS–138 radar. The radar was authorized and funded in an urgent supplemental, and about $20 million was appropriated for the prototype P–3.

As you know, the drug policy board, the Attorney General, DOD, and OMB were dragging their feet for a while, but now everybody has signed on—Mr. Meese, Mr. Miller, Secretary Baker, and Customs, of course—all have agreed to proceed with this.

This was all confirmed at the recent Judiciary Committee meeting, and Mr. Meese also has given me his personal commitment to seek release of the APS–138. I asked Mr. Payette, Under Secretary of the Navy, and he was anything but encouraging that we were going to see it.

I wonder if you can give us the status of that prototype project, and tell us briefly if you think the APS–138 radar is on its way, or what we can do to help you.

Mr. VON RAAB. On February 23, I wrote a letter to Secretary Weinberger requesting his assistance in acquiring the APS–138 radar system. My announcement of our intent to proceed with a sole source contract with Lockheed, California, was published in the Commerce Business Daily on February 23, and once we receive assurance from the Defense Department that the radar is available to us, we will be under contract within 60 days.

Senator DECONCINI. So it is a matter of whenever you——

Mr. VON RAAB. I do not have any further information on the radar.

Mr. KEATING. Mr. Chairman, if I may postscript——

Senator DECONCINI. Can you comment on that, Mr. Keating?

Mr. KEATING. We are as frustrated, Mr. Chairman, as I am sure you are, on this issue, because we see this as a mandate from the Congress that we intend to carry out, and we think that this is very important for the success of our drug mission.

As a result of Commissioner von Raab's letter to Secretary Weinberger, I called Assistant Secretary Chapman Cox of the Defense Department to ask him what was required for us to get the APS–138 radar.

He asked that we get a letter from Attorney General Meese directly, in addition to Mr. von Raab's letter, directly to Secretary Weinberger, which is now on Attorney General Meese's desk. We did prepare that letter, and we are hoping that it will be sent immediately.

The problem with the Defense Department is they feel that there is a question of legality about their giving us the radar. We had addressed that, and readdressed it; we think they are wrong, they think they are right. We hope this letter is sufficient.

If it is not sufficient, we would propose, and they have agreed tentatively to it, that they transfer to us the money to do that, we take the money, we buy the radar with the understanding that we will be first in line to get it. That is a drop-back position if we cannot get it because of the legal considerations for the Department of Defense.

Senator DECONCINI. Can you get it from the contractor himself, directly?

Mr. KEATING. This is something that is of concern, and I think rightly of concern. We would rather get it from the Defense Department. We hope that the Attorney General's letter will be sufficient. If it is not sufficient, if we have a fall-back position requesting that it be turned over to——

Senator DECONCINI. The Attorney General's letter, I take it, also addresses the legal question that the DOD is worried about?

Mr. KEATING. That is correct, yes.

Senator DECONCINI. Has the Secretary been involved with Secretary Baker at all?

Mr. KEATING. We have not brought him into it as yet, Senator, because we are hoping we can resolve it again with Secretary Weinberger's letter or the transfer of funds.

Senator DECONCINI. I think the committee stands prepared—the ranking member stepped out—to assist you in any way we can. We are having some further hearings up on the Defense Subcommittee on the Navy error, and we are going to pursue it a little further there. We sure would like to get this thing on board.

UNITED STATES/BAHAMAS TASK FORCE RESOURCES

Mr. Commissioner, the drug bill that was enacted last year addressed the United States-Bahamas drug interdiction task force and authorized $15 million for the three specific initiatives that you know so well: $9 million for three drug interdiction helicopters; $1 million for enhancement communication; and $5 million to start a Coast Guard docking facility.

Of these amounts, $10 million was ultimately appropriated to Customs, and the docking facility was put in the Coast Guard budget. What is the status of your plans to purchase the drug interdiction helicopters for the task force to date?

Mr. VON RAAB. Mr. Chairman, one of the subcommittees of the drug policy board working group is called the Bahamian task force subgroup, consisting of Ann Wroblesky of the State Department, Jack Lawn of DEA, Paul Yost of the Coast Guard, and myself.

As a result of a series of discussions within that group, I felt the way to move this thing forward most quickly and meet the intent of Congress to get a task force going was basically to offer $8 million of the $10 million of the money appropriated to the Customs to the Coast Guard to fulfill our obligation to provide air support for this effort.

The reason I did this was simply if I had continued in the position that Customs should buy these three helicopters, I am afraid that this issue would still be kicking around the various halls of departments in the executive branch. As a result, that is how we are going forward.

FUNDING AGREEMENT WITH COAST GUARD

We have signed a memorandum of agreement with the Coast Guard in which the Coast Guard—and I would be happy to give you a copy of it—is taking up the obligation to provide this air support, as well as to use $1 million of the $8 million for communications, and that is where we left it.

HELICOPTER OPERATION AND MAINTENANCE

Senator DECONCINI. What about O&M? Are you going to pay for that now that they have the money?

Mr. VON RAAB. We are completely out of that. The agreement is that this particular part of the program would be supported by the Coast Guard with the $7 million that we would provide to them through this memorandum of agreement. The communications for their operations center, if you will, would be supported by $1 million. The other $2 million, the group has agreed, will be used to improve the aerostats.

Senator DECONCINI. Let me ask you this question. Does the Coast Guard need this money for those helicopters? Do they not get some from the Air Force?

Mr. VON RAAB. I do not know the answer. I do not know if the Coast Guard needs it or not.

Senator DECONCINI. I do not either.

Mr. VON RAAB. I believe they are going to take the helicopters from those the Air Force is flying now in this operation, and probably trade them for some helicopters that they have, and improve them and operate them with the money.

Senator DECONCINI. What are they going to use the helicopters that you gave them the $7 or $8 million for?

Mr. VON RAAB. They will fly them in the Bahamas.

Senator DECONCINI. In the Bahamas, solely?

Mr. VON RAAB. Well, solely, I do not know, but certainly——

Senator DECONCINI. Is that just the cost of the helicopters and the communications on them?

Mr. VON RAAB. The agreement is that the Coast Guard will increase or augment air interdiction operations by at least three helicopters as part of a Bahamian task force.

Senator DECONCINI. And how much money is that?

Mr. VON RAAB. $7 million and associated costs, such as operation and maintenance.

Senator DECONCINI. And they are assuming that it is coming out of the $7 million?

Mr. VON RAAB. That is coming out of the $7 million, or they are going to take it out of the——

Senator DECONCINI. So you are paying the O&M. Customs is paying the O&M, then.

Mr. VON RAAB. The $7 million could be used for the O&M or for the acquisition of helicopters. I believe that it will probably be used for the improvement and revitalization of the Air Force helicopters that they acquire, and for the running of them for some period of time. Our proposal that was presented in this group was to purchase the civilian version of a Sikorsky, but as I indicated, I did not see agreement on that. Therefore, I felt, in order to get some helicopters in the area, the best way was to transfer the money to the Coast Guard.

CONCERN FOR USE OF O&M FUNDS

Senator DECONCINI. My concern, and I do not want to second-guess you here or try to tell you that I know anything better to do with it, but it seems like you were very generous, and I appreciate it. Quite frankly, it made a big impression on me, Commissioner, that you were willing to go ahead and give away this asset, so to speak, in order to get the job done, which is what we are all about here. And you are, too.

But yet, then, I am wondering whether or not you are also giving them the O&M money for it, and why Coast Guard cannot absorb that and leave you with those additional funds for other operation and maintenance. I do not want to sound critical, but maybe that is the best deal you could cut under the circumstances. I just wanted you to comment on the O&M.

It seems to me that what you are telling me—and I would like a copy of that to look at a little more carefully later—is that you gave them some money to buy some helicopters, or retrofit helicopters, and it is understood that there is O&M money to run those helicopters.

Mr. VON RAAB. They are going to use the $7 million——

Senator DECONCINI. Anyway they want.

Mr. VON RAAB [continuing]. To fuel the helicopters, to acquire the helicopters, to retrofit the helicopters, is my understanding of the agreement.

APPROVAL OF TRANSFER OF FUNDS

Senator DECONCINI. What happens if we turn them down?

Mr. VON RAAB. I would have to consult our comptroller. It is a memorandum of understanding. Mr. Hamilton, do you want to comment?

Mr. HAMILTON. Obviously, if they disagree with the memorandum of understanding, it would make that agreement null and void.

Senator DECONCINI. You are going to have to get approval, I guess, to transfer money. Is that your understanding?

Mr. HAMILTON. I think we would have to discuss with staff if that is required.

Senator DECONCINI. Commissioner, I am just telling you that I am very concerned about it; I want the record to be very clear; and I do not want to put words in your mouth.

Mr. VON RAAB. I will just say, we believe that the memorandum of agreement, the way it is set up, does not require approval.

Senator DECONCINI. Approval from the committee?

Mr. VON RAAB. Yes; but it is not designed to avoid seeking approval. Obviously I am telling you exactly how the agreement was made. That is the agreement, and if you all feel that it requires approval, we would certainly wait until you gave us approval. But we think that, technically speaking, unless we hear from you——

Senator DECONCINI. I would welcome your submitting to us your interpretation of how that transfer from one account to another does not require approval.

Mr. VON RAAB. Why do we not do that, and then if you do not agree with it, then we will request a——

Senator DECONCINI. The other thing I want you to do, Mr. Commissioner, is explain for the record that—I do not want to put words in your mouth—but I presume you think this is in the best interest of following the congressional mandate of your task to do the Bahamian task force by making this transfer. Is that a fair assumption?

Mr. VON RAAB. Yes; there are two aspects of that.

First, the Customs Service does operate along the coastal waters, and for the most part this will be aircraft used to support the Bahamian police. In that sense, an argument could be made that the Customs Service is an interdiction agency and not a ferrying operation. That certainly is one of the reasons why we did it.

Second—and as I said, just as important—it struck me, bureaucratically, that this was the fastest way to move this issue and to get planes into the Bahamas.

Senator DECONCINI. I appreciate that effort, I really do. I want the record to be as clear as possible that in your professional judgment this also serves the best interest of our coordinated drug effort in the Bahamas.

AEROSTATS IN THE BAHAMAS

Along that line, Mr. Commissioner, tell us about the second aerostat radar. What is the status of the Georgetown aerostat, and when can we expect the second Bahamian aerostat to be operational? Mr. Rosenblatt seems to be the expert on those things.

Mr. ROSENBLATT. On September 24, the U.S. Air Force signed a letter of intent to transfer the funds to the Customs Service, and I believe we have had a transfer of those funds to the amount of $18 million. The Tactical Air Command assigned a project within the Air Force. We have a team leader.

As far as we are concerned, we are going to put that balloon up in Georgetown; and we hope to have site preparation and the balloon up for testing by October 1987, and fully operational by the end of December 1987, sir. So again, we are moving out smartly on that. As I said, the $18 million have been transferred or are in the process of being transferred this week.

Senator DECONCINI. Thank you, Mr. Rosenblatt.

AIR PROGRAM STAFFING

Mr. Commissioner, I want to go over the crews and pilots for your air interdiction assets. One of the major concerns about the rapid growth of the Customs Air Interdiction Program is that Customs make absolutely sure it has the pilots, crews, and support personnel. We went through this, and I know you were called on the carpet once before by Congressman English, and I do not want the subcommittee to have to go through that embarrassment.

You recently took delivery of two sophisticated E–2C's. You have taken delivery of some additional Blackhawk helicopters. And you may be receiving as many as seven Australian NOMAD drug interdiction aircraft by October.

What assurances can you give to us that you will have the trained crews to meet the 100 hours that we talked about and the guidelines you set up before flight time for some of these aircraft?

Mr. VON RAAB. I am awash in data on our air program, most of which is of considerable interest to you. Our current program total, to get a perspective on this, is 765 slots for the air program. In 1986 we were at 420, and fiscal year 1987 increases were at 345. As of March 3, we had 402 on board, with commitments of 267 bringing us up to a total of 669. Since that time—this may be March 3, but the most recent information I have is that there are only 3 uncommitted slots of that entire 765.

Mr. ROSENBLATT. If I may, there are 291 pilots within that 765 figure the Commissioner gave you. We have 163 pilots on board.

Mr. VON RAAB. And there are only three uncommitted pilots Mr. Rosenblatt.

Mr. ROSENBLATT. Yes; the rest are committed except for three slots.

Mr. VON RAAB. So we are close to fully staffed in terms of the administrative work necessary to identify and obtain commitments.

As far as the E–2C's are concerned, we have 10 pilot positions of this number that I have just referred to dedicated to this aircraft has commenced and will be completed by the end of July. We have 18 pilot positions of this 291 dedicated to the P–3 aircraft.

Senator DECONCINI. To four P–3's?

Mr. VON RAAB. Yes; all pilots are fully trained.

Senator DECONCINI. Is that enough, 18, to man all of those?

Mr. ROSENBLATT. Yes, sir; you might be aware that one of those P–3's is going in around June for certain equipment enhancements of an intelligence nature.

Senator DECONCINI. You are going to have three starting June 1.

Mr. ROSENBLATT. For 6 months there will be three, and then we hope to be able to do a second P–3 with that same batch. We believe with the crosstraining of 28 total pilots for P–3's and the E–2C, along with depot-level maintenance, we have sufficient pilots.

Senator DECONCINI. To make the 100 hours that you have set as your goal?

Mr. ROSENBLATT. Yes, sir; that is our goal.

Senator DECONCINI. When would you be in that 100-hour goal, do you have any timetable?

Mr. ROSENBLATT. I had hoped that we would have been in that mode in June. I am optimistic that we will reach this goal by the end of the year, if not before. Just last week I was advised that we were flying about 50 hours on a couple of those P–3's, so I think that is a big improvement over last year, but we still want to get that 100-hour average per plane. I think we have reached between 60 and 70 hours on the average, along with depot maintenance, and, of course, some of the P–3 crews that are being trained on the E–2C's.

Senator DECONCINI. Mr. Commissioner, could I ask you to have your staff advise this committee when you do reach that 100-hour goal, whether it is June or July or whenever it is. Just out of curiosity, I would like to know when it comes about.

Mr. VON RAAB. Yes; I have a few further details.

Senator DECONCINI. Please.

PILOT TRAINING

Mr. VON RAAB. We intend to crosstrain the 28 pilots that fly both E–2C's and P–3's so that they will be able to fly both aircraft. Then finally, we have 32 pilot positions dedicated to the Blackhawks, of which 14 pilots have completed training. Two are in training. The other 16 should complete training prior to the end of this fiscal year.

MEXICAN INTERDICTION EFFORTS

Senator DECONCINI. OK. Mr. Commissioner, your agency is our front-line defense against the drug smuggling along the Southwest border. You people have almost daily knowledge of what is going on within that country. A recent 523 pound cocaine seizure at the Douglas, AZ, port of entry shows this Senator that Mexico continues to be a major transshipment and a source country for drugs.

This last Thursday and Friday we met with the attorney general of Mexico and the president of the country. Can you give us your professional assessment of what Mexico is doing to eradicate drugs in Mexico; how Mexico is cooperating with the United States-Mexican drug effort; and what the nature of the drug threat along the Southwest border tells you about the overall Mexican effort to halt drugs coming into the United States.

Mr. VON RAAB. I cannot comment on the actual progress of the eradication program within Mexico because I am not responsible for that. All I can say is, that if it is taking place, its effects have not been felt at the border.

The threat of drugs either being produced or manufactured and/or transshipped through Mexico remains a very serious problem, and has not in any way abated in the past year or so. If anything, it continues to rise at a steady rate.

In terms of Mexican efforts, the State and local authorities with whom I have worked, and the Customs officers for whom I am responsible have not given me any information on any cooperation of any particular nature. There may be some taking place with other agencies. Therefore, the southern border remains a very, very critical border from a drug interdiction perspective.

Senator DECONCINI. In relation to say a year ago or 2 years ago, you find no significant difference along the border except more drugs? Is that your assessment?

Mr. VON RAAB. That is all I have seen—more seizures.

CUSTOMS INVOLVEMENT WITH MEXICO

Senator DECONCINI. Does the Customs Service deal with the Mexican Government directly, at any level?

Mr. VON RAAB. Are you speaking of me personally?

Senator DECONCINI. You and Customs, your agency. I know you are about as popular as I am down there.

Mr. VON RAAB. There were two events, one of which is ongoing.

There was a working group that was established initially in El Paso to try to facilitate the movement of cargo across the border. It involves U.S. Customs officers. It involves businessmen and businesswomen along the border. It involves Mexican customs officers. This is not a narcotics effort. It is merely an effort to try to improve some of the practices—aligning hours, getting traffic better organized as it crosses the border. That is one effort in which the United States Customs Service is involved with the Mexican Customs Service. It has nothing to do with narcotics.

In the past year, the only connection I have had with any Mexican officials, apart from the newspapers, has been a meeting at which the head of Mexican customs was in my office. He brought with him a number of other officials, and he came up to discuss a whole range of issues with me. I do not really remember what we talked about except that nothing happened.

Senator DECONCINI. Have you ever shared any information with Mexican officials as to the concerns you have expressed over the years regarding drug corruption and the problems that they face there?

Mr. VON RAAB. I have not discussed any of these issues with Mexican officials directly since the time that Senator Hawkins and I were in Mexico City, which was several years ago. Since that time, any information I have had with respect to problems with Mexico has either been forwarded through former Ambassador Gavin or over to the Justice Department through the mechanism that the Attorney General, Mr. Meese, has set up with his Mexican counterparts. But I have not personally dealt with Mexican officials in some time.

Senator DECONCINI. Have you sent your intelligence information to Mr. Meese and the Justice Department?

Mr. VON RAAB. In many respects, my intelligence information is in common with the Justice information; in some cases it supplements it. But the answer is yes.

Senator DECONCINI. And what about Ambassador Pillard?

Mr. VON RAAB. I have had no dealings with Ambassador Pillard. He has been rather critical and, therefore, he does not seem to be a likely candidate for——

Senator DECONCINI. I came to your defense over the weekend, I want you to know, with the ambassador.

Mr. VON RAAB. Thank you.

EVALUATION OF MEXICAN ENFORCEMENT

Senator DECONCINI. Let me read to you a section out of the international narcotics control strategy report of March 1987 from the State Department, and ask for your comments on it, if you care to. It says, adequacy of legal and law enforcement measures—that is the title of this particular paragraph:

> While existing laws are adequate, Mexican enforcement, interdiction, and sentencing is less than adequate, and in many cases nonexistent. Narcotics violators still bribe their way out of prison. Tougher drug laws are contemplated by the GOM, with quicker sentencing, and longer prison terms, but law enforcement continues to be slow, cumbersome, and bogged down by corruption. The major stumbling block is the legal process.

End of quote.

How would you depict that? Would you agree that——

Mr. VON RAAB. I think that is an accurate reflection of the state of affairs.

Senator DECONCINI. So you are in concurrence with the State Department's observation about the Mexican problem as it relates to drugs?

Mr. VON RAAB. Yes.

Mr. KEATING. Mr. Chairman, I am sure that that was stated euphemistically, as well.

I might note, Mr. Chairman, that when we put together Operation Alliance, we did not put it together with the anticipation of any enforcement assistance from the Mexican Government. That expectation was not misplaced. We have received no enforcement assistance.

COORDINATION WITH AMBASSADOR PILLARD

Senator DECONCINI. Have you, Mr. Keating, had any contacts with Ambassador Pillard, or made any overtures? Have you shared with him your statement, just what you said there, in concurrence with this?

Mr. KEATING. Yes; I have

Senator DECONCINI. You have. Have you transferred, or offered to transfer any intelligence information that you have in your agency to the ambassador?

Mr. KEATING. Mr. Chairman, as you know, I have oversight responsibility for ATF, Customs, Secret Service, and the Federal Law Enforcement Training Center. I do not acquire or assimilate or digest or analyze any intelligence. It would have to come from the individual bureaus. All of our bureaus have expressed their willingness to cooperate, and that continues to this day. It is just that the reciprocity is not there. There is no real cooperation from——

Senator DECONCINI. What strikes me about the ambassador is that he appears to be totally ignorant of the intelligence information that I know exists with you, DEA, and even the CIA. You get a very rosy picture from his standpoint, and when you say rosy picture, he says, no, I do not want to leave that impression. But my concern is whether or not he has access to that, even if he is not asking for it. Is there a procedure for you to pass information on to him, Mr. Keating, that you think might be helpful just for his assessment of the problem?

Mr. KEATING. Mr. Chairman, as you know, he has access to that document that you are holding. He has access to DEA briefings. I would assume he is receiving those briefings. Customs has a presence in Mexico City, and I am sure has made itself available for the purpose of briefing the ambassador. We certainly hope, in the enforcement community, that he will be willing to assimilate that information.

Mr. VON RAAB. I spent about an hour or more with the ambassador before he was the ambassador, as he was on his way through the process. At that time I gave him an earful of information. What he has received since that time, I do not know.

Senator DECONCINI. I have a number of other questions but I am going to yield to Senator Mikulski. Senator, your questions. I understand that you are a celebrity and you are going to be in a Washington Post story Sunday, is that right?

Senator MIKULSKI. No, Senator, they are doing—the Post moves more slowly than that—they are doing something on my first 100 days here.

Senator DECONCINI. Very good.

Senator MIKULSKI. Let us hope so.

Senator DECONCINI. I hope they include your very active participation on the corporation committee.

Senator MIKULSKI. Thank you, Senator.

PREPARED STATEMENT

Senator DeConcini, my staff has done an excellent opening statement for me. It is so good I know it would excite everyone in this room. So I am going to just defer and ask unanimous consent that it be entered into the record. I do not want the level of passion to rise this late in the afternoon.

[The statement follows:]

STATEMENT OF SENATOR BARBARA A. MIKULSKI

Mr. Chairman, I am delighted to join you and the other Members of the subcommittee this afternoon for this hearing on one of the Treasury Department's most important agencies: the U.S. Customs Service.

An effective, efficient, and modernized Customs Service is a key link in promoting American goods in international trade and in fighting the war on illegal drugs.

The Customs Service is vital to the port of Baltimore. They inspect and review over 27 million tons of cargo annually that is imported and exported through Baltimore. It is the speed and accuracy of this review which often makes the difference in the port's competitiveness and whether maritime-related business turn a profit or not.

For the past several years, I have had deep concerns about the staff levels at the Customs' Baltimore district office, particularly in the commercial sector.

During last year's debate on the continuing resolution, the Maryland congressional delegation and Commissioner von Raab successfully negotiated an agreement which should resolve most of these concerns.

Nevertheless, I will be anxious to hear the status of Customs' implementation of that agreement and how the proposed fiscal year 1987 rescission would effect it.

Finally, Mr. Chairman, I commend you for your work to make sure that the Federal Government invests the kind of resources to fight the war on drugs which it needs if we are to win that fight.

I know that the Southwest border initiative, developed largely through your efforts, is the front-door for drug smugglers which we must close if we are to make our schools and streets drug free.

At the same time, while I pledge full support to you in this fight, I want the Customs Service to know that I intend to join you in keeping the side doors of American drug traffic, like ports like Baltimore, from becoming new avenues for drug smugglers to enter.

I look forward to working with you, Mr. Chairman, in making sure that Customs has the funds it needs to do its job both efficiently and effectively.

SENATOR MIKULSKI'S CONCERNS

Senator DECONCINI. This has been pretty dull.

Senator MIKULSKI. No; you and Commissioner von Raab are not dull. But Mr. Commissioner, I am happy to see you, and I know that you have done an outstanding job working with this subcommittee chairman and other Members of Congress on this drug interdiction. I know that you have really put a lot of effort and a lot of resources into it. I am glad that you grasped very early on the role that Customs could play in drug enforcement.

Your work has absolutely my full support. Senator DeConcini is really the expert on this. I would like in the course of our conversation to focus on some of the commercial aspects of Customs. Knowing how strongly I feel about it—I know that Customs was the first agency the Federal Government created. It has a traditional mission related to imports and exports, which I am going to talk about; a new mission related to drugs and commercial fraud enforcement; and, at the same time, you are called upon, or actually you have even set the policy, of doing more with less.

My questions are really going to be focused on the trade aspect—how we can be more competitive, et cetera. Let me just back up, here, a second, because I am going to ask you about personnel and ACS. But what a broad policy question. The President wants us to be more competitive. Part of the President's trade policy, or the administration's policy, is to enhance exports, not only in urging Congress not to put up barriers to trade.

One of my concerns, Mr. Commissioner, is the self-imposed barriers we place on ourselves in trade, the kinds of things Barbara has talked about, which you have to enforce in terms of export technology controls, and so on.

But my questions relate to what kinds of things the Customs could do, to be able to enhance exports, and I will tell you what some of the problems are that I hear around from ports: that when exports get ready to leave, and you are enforcing these prohibitions you so clearly outline on page 26.

You do not make the law; you enforce it, whether it is particularly the Export Administration Act, the illegal export of critical technologies to enforce the embargoes. The embargoes are fine.

Where we seem to fall down, Mr. Commissioner, is in item two, the exports in illegal critical technologies. We are not here to debate *Weinberger* v. *Baldrige*, but what happens is, the Customs people down at the docks very often, because of the complexity of technology, will not let things go, because either they are too short on resources or they are too poorly trained.

These are not criticisms. Your people are very dedicated. But sometimes down on the docks, they cannot tell the difference between an artificial insulin pump and a critical technology that they might be concerned about with reverse engineering. What happens then is exports often end up in the warehouse until somebody can come in and say whether it is go or no go.

It is one of those stumbling blocks that we run into in terms of exports. I wonder if you have given this any thought, not only this particular example, but, as the administration is fashioning its trade policy, if you have looked at what we can do in the area of Customs to remove those self-imposed barriers that we place on ourselves.

Mr. VON RAAB. I am a little disturbed at your observations, not that you have made them, but if they are accurate.

The program about which you are speaking, we call Operation Exodus. It was put into effect in January 1982, and for a long period of time—1 year, 18 months—the kinds of problems you refer to were, unfortunately, commonplace. Our inspectors were not well-experienced in dealing with these.

I have been led to believe and do believe that those kinds of problems are at a minimum at this point, and I would certainly like to be able to meet with your staff to identify the kinds of things you are talking about. There is a practice called detaining, which is an informal physical detainment prior to seizing.

In the early stages of this program, somewhere around only 20 to 30 percent of the goods that we were detaining ultimately were being seized. That percentage is now up around 76 to 80 percent, which would mean that if something is detained, physically, by a Customs officer, there is a three-out-of-four chance that it will be seized, because it is in violation of law.

I believe that is a pretty good percentage, because certain items are complicated. The Secretary of Commerce is planning to try to eliminate some of the lower-risk items. So I would expect that the shortening of the list for the lower-risk items should eliminate a lot of these problems.

If we can identify the inspectors that do not seem to know what they are doing, we will put them back through training. We do try to provide them with training on this. We provide them in many cases with little computers that use a hierarchical decisionmaking system working down to figuring out finite job or object. Our systems are pretty good. We also have manuals that basically convert the industry descriptions of these goods into the legal descriptions.

So I would hope that the events to which you are pointing are aberrations in the system. If they are not, we will take a good look at Baltimore, because that really should not be happening.

Senator MIKULSKI. These are not only Baltimore-specific. These are other concerns that have come up, and we have tried to take a look at trade activity.

Mr. VON RAAB. Often the trade comes up with problems that they had 4 years ago. That is often a problem whenever anyone is trying to change legislation, as you are well aware. Anecdotes have a habit of being collected over 5 years rather than recently.

Senator MIKULSKI. I am happy to talk with you more extensively, and I would presume you are working with the Baldrige people in identifying what——

Mr. VON RAAB. Yes; Paul Friedenberg, the Assistant Secretary, and I work very closely. There is a very good working relationship between the Commerce Department and the Customs Service, because it is a continuous process. The license has to be obtained from Commerce,

and then we have to check into the presence or absence of the license. It is a pretty good system.

AUTOMATED COMMERCIAL SYSTEM

Senator MIKULSKI. I would like to bring up another issue around the Customs automated commercial system. Again, perhaps these are old anecdotes, but one of things, with our increased atmosphere of competition, the speed with which a port or a steamship company processes cargo has become crucial to remaining competitive.

One of the things that is concerned is the whole area of personnel and adequate personnel, and then also the use of technology to maximize personnel. When we come to the Customs automated commercial system, there have been some questions or concerns raised from freight forwarders and others about problems being experienced in establishing the interface between ACS and that with individual ports' automated cargo processing systems. I wonder where we are in the status of efforts to interface the ACS, your master system, with local ports; what problems you have run into, from your perspective, and how we are moving on that.

Mr. VON RAAB. While I am talking about the other ports, my staff can whisper in my ear how things are going in Baltimore. It is going very, very well in a number of major ports, for example, Miami——

Senator MIKULSKI. I am known here as the port person, not just Baltimore. I will come to Baltimore's problems.

Mr. VON RAAB. I have had discussions with the large port cities in the United States, such as New Orleans, which has got the crescent system and is working very closely with the Customs Service, and I have heard no problems. There are always technical problems, but no complaints, I guess is the way I would put it.

It is the same in Miami. They are working on a variant of the Heathrow system.

New York is about to put $30 million into a system to connect into the Customs system, and the relations there appear to be excellent.

The very important developments in Maryland include a part of the automated commercial system, which is the automated manifest system, and we are working very closely with the Maryland Port Authority in that area. I am informed that the program is proceeding very well.

So the information that I receive about our relations with the ports—not necessarily a freight forwarder, or a broker, but the ports themselves—has been very, very positive.

The only one that has had any questions whatsoever has been Los Angeles, and there it is just a reticence on their part to jump into a system that is still necessarily in the developmental stage. But even there, they have not in any way complained about Customs. They have just said, well, we are not sure that we want to spend all of that money because as you develop your connections or your nexus with various ports, you necessarily modify the system, and we want to jump on the system when it has reached its finest point of refinement.

So I believe that the situation is very good. Sixty ports now are operating on line under ACS cargo selectivity, enabling inspectors to make decisions based on automated data.

The AMS, or automated manifest system, is in place in seven locations.

So it seems to be going very well. I think if you read the trade press on this, from the port perspective, you will see that the articles have been largely if not entirely favorable to the Customs efforts.

RESPONSIBILITY FOR AUTOMATED COMMERCIAL SYSTEM

Senator MIKULSKI. Are you personally involved in looking at this system?

Mr. VON RAAB. Oh, yes. I was the one that took the risk of trying again. Customs failed once.

Senator MIKULSKI. Oh, and it was a fiasco, too.

Mr. VON RAAB. We tightened up our belts and tied our shoes and jumped again. I am very much personally involved. I have spent days with the New York ports authorities and days with the Los Angeles ports authorities. I know all the men who are responsible for those various operations personally.

So yes, I am very much involved in these activities.

Senator MIKULSKI. And then who within your operation is in charge of the ACS?

Mr. VON RAAB. There is a hierarchy.

The Deputy Commissioner in the Customs Service is Michael Lane. He is particularly interested in systems, and, therefore, he is very much involved in commercial activities, particularly the automated commercial system.

Under him is the Assistant Commissioner for Commercial Operations, Jerry McManus, who as a matter of fact is in Palm Springs today at a brokers' meeting, discussing, among other things, ACS and automated broker interface. He was, formerly, the port director for Savannah, so he knows port operations very well.

Under him is an individual who is specifically responsible for ACS.

Senator MIKULSKI. So what you have is really a mix between someone who really understands hardware/software, somebody who comes from the port and knows what the hell you are supposed to do every day when you get up and move it. The ports have their own culture, their own life, as you know. Some ports, I know, I talk with, have a shoe box or a cigar box processor; and some have created their own systems.

Mr. VON RAAB. I would not want to characterize them in a public session because I always hear about it, but I find remarkable the difference between the willingness of some States or some ports authorities to make commitments to get their ports into the modern era, and others. Some of them are putting enormous moneys into it.

New York Port Authority, of course, has a lot of money, but they are making a tremendous effort.

But I am very comfortable with our relationship with the ports around the country. There are always problems as to whether we are doing more inspections in one port, or unnecessarily favoring one against the other, and that is just an accident of local management, and we always try to iron those differences out. But I believe on this aspect of Customs operations, things are going pretty well.

BALTIMORE DISTRICT STAFFING

Senator MIKULSKI. I do have a particular Baltimore question related to personnel. Last year the Customs Service had an agreement with the Maryland congressional delegation to add and upgrade its personnel at the Baltimore district office. Staffing has been incomplete, according to your congressional affairs staff, and I wonder where we are. When do you expect a complete staffing, and with the 1987 rescission being proposed, how would this affect that agreement?

Mr. VON RAAB. The August 1 internal Customs authorization for 1986 was 162 people. The January 1987 authorization—I use that in an informal sense, meaning what Customs has allocated—was 179, and that is the increase of 17 people that we have committed to the congressional delegation.

Since the beginning of this fiscal year, we have increased the number of inspectors authorized by 5 positions to a total of 59. We are in the process of filling the positions.

Senator MIKULSKI. When will we get the other 12, Mr. Commissioner? I think we have five now, Mr. Hamilton. I think they are actually on their way, if they are not there already.

Mr. BANKS. Essentially in the last 6 months——

Senator MIKULSKI. Could you tell me who you are?

Mr. BANKS. I am Sam Banks. I am the Assistant Commissioner for Inspection and Control, which includes the inspectors, around the country.

In essence, we have added a total of 17 positions in the last 6 months in Baltimore. Of those 17, 5 are inspectors, and they are actually in the process this week of finalizing the selection on those positions.

Senator MIKULSKI. So we will have a total of 17?

Mr. von RAAB. Five of them are inspectors.

Mr. BANKS. Yes; five are inspectors.

Senator MIKULSKI. And what are the other 12?

Mr. BANKS. The other personnel include entry control clerks, who are being added into the process to expedite the paperwork processing, the entry documentation that is going to——

Senator MIKULSKI. But that was the package deal.

Mr. BANKS. Yes, ma'am.

Senator MIKULSKI. So what you are saying is, that I will get my five inspectors.

Mr. BANKS. Yes.

Senator MIKULSKI. But you had promised us a total of 17 people.

Mr. BANKS. Yes; that is correct.

Senator MIKULSKI. And there would be a mix of people to do the processing, from inspectors, paperwork, and other jobs.

Mr. VON RAAB. The five inspectors are being filled now.

Senator MIKULSKI. Right.

Mr. VON RAAB. There are several entry clerks. If you will permit us, we will get back to you with a breakdown of the 17 people. Five of them are inspectors. Two are entry clerks, if you will, who actually support the inspectional activities. Some of them would be import specialists. The five inspectors are not on the job yet.

Senator MIKULSKI. That is right. But they are in the pipeline.

Mr. BANKS. Yes, ma'am.

Senator MIKULSKI. But you are saying the other 12 people who——

Mr. VON RAAB. Six of them are in the criminal investigative area. The remainder are in entry control or are import specialists in the—what we call the commercial classification and evaluation area. That is a total of 17.

Senator MIKULSKI. This is Mr. Kelly, who is with me, and has done my port work for a long time. My understanding was that we were 12 short.

Mr. VON RAAB. That is right; of the 17 positions that have been authorized, only 5 have been filled. We will fill the rest.

We will contact Bob Beikirch this afternoon, I am sure, and ask him the status.

Senator MIKULSKI. Great.

USER FEES

Senator DeConcini, I have a question relating to trucks, and several other subjects.

Senator DECONCINI. Go right ahead, Senator.

Senator MIKULSKI. On the user fees, this goes to the user fees on exports authorized by H.R. 6?

Mr. VON RAAB. That is the waterways bill?

Senator MIKULSKI. The waterways bill.

Mr. VON RAAB. Yes.

Senator MIKULSKI. A couple of questions. How much money do you expect to collect from that?

Mr. VON RAAB. One hundred and sixty million dollars.

Senator MIKULSKI. One hundred and sixty million dollars. That is a bundle.

How much do you think it will cost the U.S. Customs, U.S. ports, and port-related business to do this, do you know?

Mr. VON RAAB. U.S. Customs would have been easy. We are getting $5 million to administer it. How much it would cost the private sector, I do not know.

Senator MIKULSKI. What they are concerned about, of course, is that it will result in anticompetition.

Mr. VON RAAB. It will increase the paperwork, without question. The import side of it should not be a problem, because that is merely an extra calculation on the documents that are already submitted. On the export side, there is a moderate increase in paperwork, because they are supposed to be submitting shippers' export declarations anyway.

As to domestic transportation, I would assume it would involve an absolute increase in paperwork. We are trying to use existing systems to calculate this amount, but there will be some increase in work.

Senator MIKULSKI. Do you think it will hurt or help our trade deficit.

Mr. VON RAAB. That is probably a very small part of the trade deficit issue. I just have no idea. I cannot imagine that it would help our trade deficit, but whether it would materially hurt it, I doubt it.

Senator MIKULSKI. When we do these kinds of user fees, do you analyze—one of the reasons I like Customs so much is that you make money for the Government—you are one of our revenue producers. Whatever we give you, you generate much more revenue for us.

But when we take a look, for example, at user fees like this ad valorem, one of the questions, of course, is what optimally is the overall cost. It looks like we are raising money for the Federal Government, but if it has a negative impact on trade or commerce, then we have a net loss in other areas. I just wonder if all that is factored in when you do your interagency analysis.

Mr. VON RAAB. Customs would not attempt to factor that in because our contribution to one of those interagency exercises is typically whether it is doable from an administrative standpoint, and what the cost to the Government would be to do it. But there are certainly many men and women involved in those committees who are concerned with the issue as to whether it would be counterproductive on the trade side.

CARGO DIVERSION STUDY

Senator MIKULSKI. I just want to wrap up that point here. The omnibus water bill, required the Secretary of the Treasury to look at the effects of the new ad valorem tax in that act on cargo diversion, which is of great concern for me, from U.S. ports to non-U.S. ports in countries contiguous to the United States. For the Northeast, that is Canada. For the Southwest, that could be Mexican ports, or California ports.

Perhaps either you or Mr. Keating could answer this. What steps are being taken to do such a study? When will it begin, and essentially where are we with it?

Mr. DURANT. Senator, if I may—my name is John Durant. I was formerly the Director of the Customs user fee task force.

That study is going to be very difficult to do. Yes; we are tasked with doing it. In the course of all our public meetings in implementing the Waterways Act, we have dealt with the various trade groups to address realistic ways that that it can be accomplished, because it clearly is our mandate.

It is going to be a difficult one to do because of the nature of change in the industry anyway. The reaction we have had initially from the

trade is that frankly they do not see 0.04 percent or $4 on a $10,000 shipment, as a significant prospect.

But they themselves have conveyed to us it is going to be very difficult to complete that study because the nature of the industry is changing so much—interrail traffic and so forth. There are a lot of changes going on in the industry independent of the waterways fee.

Senator MIKULSKI. So you are not going to do this study?

Mr. DURANT. We are going to do this study. We are mandated to do it, but I simply point out that it is going to be very difficult to come out with that specific cause-effect relationship, if you will, based on the information we have from the trade already.

Senator MIKULSKI. I know. And I know the methodology here is extremely complex.

But maybe there can be some type of simplicity where we can even do broad-brush evaluation of what used to come into some areas or not. Because you have watched the pattern, I am sure, of cargo diversion in other ways—Canada being one—and so you know the ports where most likely diversion is to occur. And then you could either target those ports, and see what the decline is; or if there is a cargo pattern to it.

Mr. DURANT. We have the mandate to do it. We certainly will be doing it.

Mr. VON RAAB. We would be delighted to work with your staff. If they have some ideas, we will plug them into our effort, because it is going to be very difficult under any circumstances, and any help we could get would be much appreciated.

PROBLEMS WITH BONDED CARGO

Senator MIKULSKI. My last comment is this, that a number of trucking firms in Maryland have indicated to me that one of the Customs regs which deals with the movement of bonded cargo by bonded carriers has created serious problems for them.

Rather than asking you the question here, because it is very complex, I would like to submit to you some of their correspondence to see if you would review these regulations and their concerns.

Mr. VON RAAB. Do you want us to get back to you personally, or do you want us to get back for the record?

Senator MIKULSKI. I would like you to get back to me personally. I do not think we need to tie up the record.

If it is something we need to go back to the chairman with, we will come back.

Mr. VON RAAB. All right.

Senator MIKULSKI. The record gets too big and too expensive, anyway.

Senator DECONCINI. Are you finished?

Senator MIKULSKI. This is a man who wants to bust drug dealers, and not the budget. I know where he is. [Laughter.]

Mr. VON RAAB. That is a low blow.

CONCERN FOR CUSTOMS RESOURCES

Senator MIKULSKI. Actually it is a compliment. Your concentration on so many of these, and the mission of the agency has just changed dramatically in the last 8 to 10 years: the drugs, the commercial fraud, the issue you have now with the enforcement of exports—complex laws, the increase in imports, all of the complex textile agreements. Your people have a lot—that is why I worry if you have enough people to do the job with the rescission, the fact that 760 positions have been lost in the commercial area.

Mr. VON RAAB. They are worried about it, too, Senator. We have been going over it.

Senator MIKULSKI. I gathered that.

Senator DECONCINI. With your being on this committee, it is encouraging to have two Members of the minority here go over it at some length, that I think this committee is prepared to attempt to find some solutions to restore some of these cuts that OMB and the administration has sent up in its budget.

Senator MIKULSKI. Mr. Commissioner, you should just know at the dockside level, at the airport entry level, I can certainly speak for Maryland. Your people attempt to be very responsive, as, quite frankly, your resources get skimpy, but at the same time they really are at a high degree professionals. And this is an area where you see the kids coming in with Gucci shoes and driving $35,000 cars, and you are asking these kinds of port cops to do the job they are doing. You should feel very proud of them.

Mr. VON RAAB. Thank you. They are a very, very fine group of men and women.

Senator MIKULSKI. Cocaine capitalism is a hard thing to run against.

UNITED STATES/BAHAMIAN HOT PURSUIT ARRANGEMENT

Senator DECONCINI. Thank you, Senator Mikulski.

Mr. Commissioner, I am not going to keep you much longer. Mr. Keating, you have been very, very generous with your time. I do have a couple of other things I would like to touch on.

One deals with the Bahamian Government. It appears to me that great credit is due that government for entering into the arrangements to permit Customs flights, hot pursuit into their territory, their willingness to allow the aerostats on their soil, the docking facility at Stocker Island, and other drug interdiction projects.

Can you tell us about the joint United States-Bahamian hot pursuit arrangement; how it works, if it is working; and will it continue through 1988?

Mr. VON RAAB. It works very well. We have helicopters based in Miami for which we have ready members of the Bahamian defense force. If there is a hot pursuit developing—let us say we are tracking a plane coming in, and instead of coming into the United States, it di-

verts into the Bahamas—we scramble this squad, which we call the bandits.

Just as an example, just a little more than 1 week ago, the agreement paid off with the seizure of 150 pounds of cocaine and 1,800 pounds of marijuana seized at Bimini. During the later part of 1986, we ran this as a special operation.

In the later part of September through the beginning of November we seized five aircraft, arrested six people, and seized 466 pounds of cocaine and over 3,000 pounds of marijuana. During January this year, we seized two aircraft, arrested three people, and as I indicated seized 150 pounds of cocaine and 1,800 pounds of marijuana.

Senator DECONCINI. That is all in the Bahamas?

Mr. VON RAAB. That is all in the Bahamas. I think it is a very good cooperative venture between two countries. I wish we could come up with a similar scheme for Mexico.

Senator DECONCINI. Are there any prospects for that?

Mr. VON RAAB. No; flatly no. None whatsoever. But it is an indication to me of how you can, if you will, share your national sovereignty. We have no problem whatsoever having the Bahamian police housed and operating in Miami on our planes. As soon as we cross into Bahamian territory, we subject ourselves to their control.

Senator DECONCINI. Have you had some cases where they have refused to let you go in after you have spotted somebody?

Mr. VON RAAB. As long as we have Bahamian officials on board, there has not been any refusal.

Senator DECONCINI. There has not been. Are you trying to get oral permission to pursue without them on board?

Mr. VON RAAB. Yes; we are. That takes time.

Senator DECONCINI. And not always available.

Mr. VON RAAB. Not only that but within 10 or 15 minutes the suspects are gone into the bush.

TRANSFER OF AIR FORCE HELICOPTERS

Senator DECONCINI. The drug bill in the continuing resolution provides $12.6 million to allow the transfer of six existing Air Force helicopters to Davis Monthan Air Force Base in Arizona to be used in support of the Customs Air Interdiction Program. I understand that six helicopters will be transferred from the Luke Air Force Base or out of other Air Force inventories to Davis Monthan.

Can you give us an update of the transport of the six Air Force helicopters to Davis Monthan, and what your plans are for using them in your air program?

Mr. VON RAAB. The current Air Force plan is for these helicopters to become operational in Tucson around October of this year. We intend to use these assets to augment our tactical bust crews, and to deploy our mobile gap-filler radars along the Southwest border, in effect providing general support to the Operation Alliance law enforcement operations in that area.

Senator DECONCINI. You are going to be able to put them to full use.

Mr.von Raab. Oh yes, very much so.

Senator DECONCINI. Last year——

Mr. ROSENBLATT. If I may add, Senator?

Senator DECONCINI. Yes, Mr. Rosenblatt.

Mr. ROSENBLATT. I think it is important that all the agencies that are involved in Operation Alliance be able to utilize the six helicopters, to keep them busy, if you will.

Senator DECONCINI. Who flies them, Air Force?

Mr. ROSENBLATT. Yes; the Air Force.

Senator DECONCINI. That is what I thought. And you have a good arrangement with them?

Mr. ROSENBLATT. Yes, sir.

Senator DECONCINI. Do you feel they are cooperating as they have on the aerostats and in other areas?

Mr. ROSENBLATT. They have always helped us and cooperated with us.

PUERTO RICAN DRUG SMUGGLING

Senator DECONCINI. Last September, as we finished up the session, Mr. Commissioner, I had a colloquy on the Senate floor outlining a possible case for putting an aerostat radar in Puerto Rico. I talked with the Governor, some of his staff, and Congressmen Fuster about this matter. I am prepared to help, if the case can be made that an aerostat is the tool that is needed to fight the smuggling of drugs into Puerto Rico, and we intend to request a 2-month analysis by Secretary Baker and Attorney General Meese.

I know that it is going to end up falling on you gentlemen to do it. Can you tell us about the smuggling threat in Puerto Rico, the type of resources needed to combat that threat and your initial judgment as to whether an aerostat may be part of that effort?

Mr. VON RAAB. I would like to ask Mr. Rosenblatt.

Mr. ROSENBLATT. Senator, we agreed that there is a certain level of narcotics smuggling taking place in Puerto Rico, and we will be particularly concerned about that which involves cocaine coming in there, or being air dropped in the waters near Puerto Rico.

However, the threats to date, as far as we can determine, on a priority basis do not justify the installation of an aerostat at Puerto Rico. With your concurrence, I think your staff as well as the Customs Service should continue to look at that and see if the threat increases to where it would justify an aerostat.

Senator DECONCINI. As part of your assessment, is that ongoing?

Mr. ROSENBLATT. Yes, sir; we have asked the Commissioner down there in Miami, who has responsibility for Puerto Rico, to keep us abreast of the threat in Puerto Rico.

Senator DECONCINI. Is it asking too much, Commissioner, that you and perhaps Mr. Rosenblatt, visit with the Governor of Puerto Rico, and get their rationale. They lay out quite a program, and for a layman, it would be a little difficult for me to assess how valid it is, with the

lack of radar coverage, and with what is available there now. Although he is moving in the area of using some of the National Guard to protect air strips on a 24-hour basis, as a part of their effort, I wonder if you could make some suggestions?

Mr. VON RAAB. I have not been to Puerto Rico since I have been in this job. I have actually tried to avoid going to warm climates.

I or my deputy or a senior official like Mr. Rosenblatt or Mr. Banks would be delighted to go down and meet the Governor of Puerto Rico. The only member of my family that has been in Puerto Rico has been my mother, and the Governor was particularly nice to her.

Senator DECONCINI. Maybe you would like to go thank him. I would appreciate it if you could make an effort. Mr. Keating, maybe you need to go to Puerto Rico, too. I do not want to leave you out of that.

Mr. KEATING. I think we have a number of people who probably would like to go Senator. I might defer to those.

BALTIMORE DISTRICT STAFFING

Mr. VON RAAB. Senator, if it is all right with you, I have some updated information on the Baltimore staffing history, if this would be helpful.

Senator DECONCINI. Sure.

Mr. VON RAAB. The information I have is that four inspectors have been selected. Six customs aides are being advertised, five selections have been made, and there is one vacancy. One import specialist has been filled, but the selectee went to another part of the district, which means we will have to fill that position again.

Senator MIKULSKI. Could you just call Mr. Beikirch, and tell him to move his guidelines—could you do that for me?

Mr. VON RAAB. Yes, ma'am.

Senator DECONCINI. Tell him to move his what?

Senator MIKULSKI. Guidelines.

Senator DECONCINI. OK. [Laughter.]

Senator MIKULSKI. They tell me now that I am a Senator I had better clean up my act. I could sit here and sound like Mrs. Bentley, but—— [Laughter.]

Mr. VON RAAB. Please do not.

Senator MIKULSKI. We are salt and pepper, you know. She is salty and I am peppery.

Mr. VON RAAB. Five special agents were selected this week.

Senator MIKULSKI. Good. Let us move those. These are commitments that have been hanging around for a long time. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Gentlemen and lady, thank you very much for your time and effort that you have given us here. We will submit the balance of the questions.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Additional Committee Questions

C-12 MODIFICATION

Senator DeConcini: You have recently taken delivery of six Army C-12 aircraft to be used in your air interdiction program for both marine and air tracking and intercept. These aircraft were the end product of an amendment I offered a few years ago to buy new Army C-12s so that the Army could turn over six older ones to Customs. Now that you have these aircraft, why does it make sense to go along with the President's plan to postpone the modification of these C-12 aircraft with air or marine radar? What will you do with the C-12s if they are not retrofit with radar?

Commissioner von Raab: The Customs Service has allotted $14.3M for the modification of the C-12 aircraft. Should the $6.6M be postponed, we will still be able to continue development of this program. We will be able to modify all six C-12 with sensors, but we will have to delay the modification of the five King Airs.

The C-12 without sensor equipment will still be a valuable asset and will be utilized in concert with sensor equipped aircraft to conduct the interdiction mission.

C3I CENTERS

Senator DeConcini: According to your February 20th letter, Customs intends to spend $38.7 million for the establishment of command, control, communications and intelligence (C3I) centers. Your January 27th plan for the reorganization of the Customs Air Program indicates that you plan to establish C3I centers at Miami, Florida, and March Air Force Base in California; and a National Command Center at Oklahoma City near Tinker Air Force Base.

You say in your statement that "the overall effectiveness of the full air program is dependent on the C3I system and the detection network of airborne and ground based radars." Congress agreed with you and approved $41 million for C3I centers in the drug bill and Continuing Resolution.

Yet, OMB, with help from the Drug Policy board, seems to constantly want to thwart the will of Congress and the experts in drug interdiction by proposing cutbacks in the C3I effort at Customs. How do you reconcile the recommendations of your experts who endorse the C3I effort, with the repeated efforts by the "bean-counters" at OMB who are fighting the C3I program?

Commissioner von Raab: The President's position on the nation's war against drugs is well known. However, the Administration must balance the needs of individual agencies against the requirements of fiscal responsibility.

Senator DeConcini: On February 12th, I wrote Secretary Baker and told him that I had no intention of approving the President's plan to postpone the obligation of C3I money from 1987 to FY 1988. Assuming I am successful, when will the first C3I center be operational; when will you break ground on the National Command

Center at Oklahoma City; and when will all three C3I centers be completed? Tell us briefly now and give us a more detailed construction time-table for the record.

Commissioner von Raab: Customs has contracts with three firms to design the C3I core system. We expect to select one approach and contract with that firm in early May 1987.

An Initial Operating Capability (IOC) could be provided by late October 1987, at the C3Is at March AFB and Miami, Florida and the National Command Center (subject to review by the National Drug Enforcement Policy Board).

CUSTOMS STAFFING STATUS

Senator DeConcini: As you know, last year's Continuing Resolution established a Customs personnel "floor" of 14,891 positions. In other words, Customs staffing levels for Fiscal 1987 cannot go below that level in the current Fiscal Year. This was done primarily to counter traditional OMB tendencies to defy Congressional mandates for more positions and apportion money for these positions for other purposes. The House and Senate Conferees agreed that it was important to lock in Customs staffing at specific levels and not leave it to the whim of OMB to set such levels.

I understand that as of February 6th, Customs had 13,866 personnel on-board, with 853 commitments for hiring. That would bring total staffing to 14,719 —— 172 short of meeting the statutory staffing floor set by law.

Give us your best forecast of whether Customs will meet the statutory floor or not and tell us what the impediments are to meeting that floor?

Commissioner von Raab: Customs has an aggressive recruitment program in place. We are committed to our goal of attaining the statutory floor by the end of FY 1987. We expect to have over 14,891 personnel on-board, however, the number of average positions will be lower as these personnel were not in place throughout the Fiscal Year.

S. W. COMMERCIAL OPERATIONS ALONG U.S. - MEXICAN BORDER

Although I have always supported beefing up our anti-drug efforts along the U.S.-Mexico border, I have also advocated efforts to balance the need for drug enforcement with the need to facilitate legitimate commerce between the U.S. and Mexico. It was my amendment to the Treasury bill in 1984 that provided the funds for a new border station at San Luis. And in March of 1985, I announced the formation of a U.S.-Mexico Border Business Council designed to address both the law enforcement and commmercial interests along the southwest border. I also intend to introduce legislation very shortly that would authorize the repair, alteration, and construction of border facilities from Texas to California.

Senator DeConcini: Can you tell the committee what your plans are for the current fiscal year and fiscal 1988 to improve Customs commercial operations along the U.S. Mexico border?

Commissioner von Raab: I have established public advisory committees along the Southern border to discuss and resolve local issues, procedural and operational changes, and facility enhancements. I have doubled the number of Southern border ports of entry having on-line ACS Automated Cargo Selectivity capabilities. All larger ports of entry currently have ACS Selectivity. Additionally, the following will improve our commercial operations in FY 1987:

- All larger ports will have ACS Line Release capability, which will allow Customs to predetermine routine, low risk shipments for immediate release and expedite the movement of cargo across the border while ensuring increased Customs control. Line Release is currently being implemented at the ports of Laredo and Brownsville.
- A task force is currently conducting surveys (Laredo, Brownsville, Hidalgo, El Paso) to assess and update policies and procedures regarding passenger and cargo processing operational standards at land borders.
- The Automated Broker Interface System has been implemented by several large brokers in El Paso and Laredo. Customs has assigned ACS specialists to additional brokers to complete implementation of the ABI system.
- Plans will be coordinated with the American Railroads Association to capture rail manifest data via electronic interface with ACS for implementation in FY 1988;
- Import Specialists will be assigned to border ports of entry as they become available;
- Paperless Entry will be implemented; and
- Agreement with the local trade community to provide Central Exam Stations to further expedite efficient devanning.

In FY 1988, we intend to continue enhancements to the projects undertaken in FY 1987.

Senator DeConcini: Tell the Committee about your plans for improving border facilities in the Southwest?

Commissioner von Raab: In November of 1986, I authorized $2.9 million for the southern land border to include the purchase of examination equipment and for facility enhancements, and $463,000 to pave the import lot at El Paso. Five major border construction projects, funded by GSA, are scheduled for completion within the next three years at: B&M Bridge, Brownsville; Presidio, Texas; Columbus, New Mexico; Ysletta Bridge facilities (Zaragosa), El Paso, Texas, Hidalgo Bridge facilities, Hidalgo, Texas. A Southern Land Border Facilities Survey Task Force will conduct comprehensive studies of inspection facilities on the southern border, focusing on: increased enforcement effectiveness, expeditious processing of legitimate traffic, secure environment for high risk transaction, and officer safety. Finally, an agreement between the city of McAllen and the Mexican Secretariat of Communications and Transportation has been finalized. Construction has begun on the new span of the McAllen/Hidalgo/Reynosa International Bridge.

GAO REPORT

Senator DeConcini: Customs inspectors are this country's first line of defense against the importation of illegal drugs and other contraband, including illegal commercial imports.

Yet you plan to reduce the number of inspectors in fiscal year 1988 by 171 below 1987 levels, while imports continue to increase. Your budget justifications indicate that this will be possible by increased productivity through automated systems, selectivity and centralized examination stations. GAO reported in September, 1986 that cargo examinations are superficial and do not assure importer compliance. (GAO Report: Cargo Imports-Customs Needs to Better Assure Compliance With Trade Laws and Regulations)

Why is Customs reducing its inspector workforce in the face of GAO criticism that the quality of the cargo examinations by Customs is unsatisfactory?

Commissioner von Raab: The cited cuts will be across the board, not all in the area of commercial enforcement. Furthermore, the criticism by GAO relates more to existing procedures and deployment of staff, rather than the actual number of inspectors.

Senator DeConcini: What specific steps are you taking within your existing workforce levels to address the criticisms of GAO on the matter of cargo inspections?

Commissioner von Raab: In response to the GAO Report and as part of an ongoing program to improve the quality of examinations, Customs is taking several steps. The Automated Manifest System will provide improved targeting capabilities and paperwork reduction. We are testing Automated Brokers Interface and Paperless Entry Programs to expedite the release of low-risk freight and eliminate unnecessary paperwork. Centralized examination sites are being developed to allow Customs to deploy inspectional staff to fewer, better equipped sites. The port of New Orleans has been selected as the site of a prototype port where the most progressive and innovative cargo processing techniques will be combined into a model processing port. A policy is being developed to establish uniform procedures for cargo examinations and provides very specific guidance to field inspectors for cargo examinations.

NATIONAL DRUG ENFORCEMENT POLICY BOARD

Senator DeConcini: Commissioner, it is no secret to you or this Senator, that the National Drug Enforcement Policy Board has not been kind to the Customs Service. Frankly, I believe that the Policy Board has overstepped its authorities by attempting to circumvent certain provisions of law that mandate specific drug enforcement initiatives, such as the E2C aircraft; the P-3 aircraft; and the C-130 aircraft for the Coast Guard. As I see it, the Board is supposed to recommend coordination of drug enforcement policy --- not try to overturn drug enforcement initiatives approved by the Congress and the President of the United States.

Here is your big chance to tell us what effect the Board has had on your operations and you can blame it on DeConcini for asking you in a public hearing. What has been the effect of the Board's efforts over the past four or five months, on the ability of Customs

to implement those drug initiatives that were mandated by the Drug Bill, the Continuing Resolution, and your own internal planning to combat drugs?

Commissioner von Raab: The National Drug Enforcement Policy Board (NDEPB) is supporting and has provided assistance in obtaining the APS-138 radar for the P-3 modification and the construction of the Command, Control, Communication and Intelligence (C3I) Centers and is reviewing the plans for the National Command Center. NDEPB fully supports Operation ALLIANCE and the programs mentioned previously.

FY 1988 BUDGET REQUEST

Senator DeConcini: Commissioner, it is a little difficult to determine from your justifications exactly what you $86.2 million budget request for the air program will actually support in fiscal 1988.

After reading your justifications, I assume that the President is assuming that $86 million will cover the cost of operating your current fleet of aircraft and equipment. However, it is my understanding that it will take at least $118 million just to keep your current assets operational in fiscal year 1988, with no new enhancements to the fleet. Perhaps it is just coincidental that the President is planning to postpone $32 million from 1987 into 1988, thus bringing your air program budget up to -- $118 million. What will you have to give up if you are forced to live with the President's original budget request of $86.2 million?

Commissioner von Raab: Approximately $118 million will be required in FY 1988 for air program operations. We have not identified what program areas would be reduced if this $32 million is not available.

Senator DeConcini: For the record, could you break out exactly what your $86.2 million will buy Customs in FY 1988 and use the format outlined in last year's Senate Report (99-406, p. 17) to make this report?

Commissioner von Raab: The President's budget assumes a program level of $118 million including the $32 million of funds carried over from 1987.

AIR INTERDICTION PROGRAM
OPERATIONS & MAINTENANCE APPROPRIATIONS

3/13/87

	FY 1988
REGULAR AIR PROGRAM	
Travel	
Transportation	
Utilities, Comm. and Rent	
Contract Services	
Fuel & Supplies	
Equipment	
SUBTOTAL (14,750/19,544 hours)	17,284
SUPPORT OF MILITARY ASSETS	
O&M Black Hawk (12 @ 70 hrs.)	6,300
O&M P-3A (4; 3 @ 100 hrs.)	12,700
E-2C O&M (2 @ 100 hrs.)	10,000
Modify C-12's for Marine Support	0
O&M C-12 Trackers (6 @ 80 hrs.)	4,212
TBO Replacements	0
SUBTOTAL	33,212
OTHER AIR	
CARIBALL Aerostat	6,500
C3I O&M	2,865
Lease Citations (4)	2,418
O&M Citations (8/14 @ 75 hrs.)	7,620
O&M CHETS (8 @ 80 hrs.)	5,630
Bah. Task Force(3 helo @ 80 hrs)	2,489
SUBTOTAL	27,522
ENHANCEMENTS	
ILS/Inventory System	500
COMINT System for P-3 (O&M)	0
C3I Development	0
Arizona Aerostat	5,000
South Bahamas Aerostat	2,692
Southwest Aerostats (5)	0
Mini-FLIR for Helicoptors	0
HF/SSB	0
San Diego Facility	0
Los Alamos Study	0
SUBTOTAL	8,192
TOTAL ANNUAL APPROPRIATION	86,210

EFFECT ON STAFFING IF PRESIDENT'S BUDGET FOR S&E APPROVED

Senator DeConcini: Commissioner, I do not envy the position you are in. You are faced with the difficult task of defending a budget that, if approved intact, will result in a total Customs staffing reduction of nearly 2,000 positions. All of this on the heels of enactment of the most sweeping, comprehensive drug enforcement legislation in history and on the eve of Congressional action to pass a major trade bill. Customs will be counted on to lead the way in our drug interdiction effort and carry out the major provisions of the trade bill. Take off your good soldier helmet for just a minute and tell this Committee how in the world you are going to beef up our war on drugs and carry out your commercial responsibilities with 2,000 fewer people next year?

Commissioner von Raab: Reductions will be taken through attrition, except in priority enforcement programs. Therefore, reductions are estimated across the full range of Customs processing, inspectional and commercial activities.

In general, Customs will make every effort to maintain service at major ports. The acquistion of high technology equipment and other automated procedures will allow Customs to maintain highly selective inspection, examination, and enforcement practices that encourage both efficiency and effectiveness. However, we do anticipate that processing of cargo, persons, and vehicles may experience some delays.

Customs Air, Marine and Southwest Border programs will remain fully staffed and investigative case work will be fully funded.

SALARIES AND EXPENSES: USER FEES

Senator DeConcini: Fiscal Year 1987 and 1988 will be the first full years of the newly enacted Customs User Fees--fees that were authorized in the Consolidated Omnibus Budget Reconciliation Act (COBRA); the Tax Reform Act; the Reconciliation Act of 1986; and the Water Resources Development Act of 1986. These fees would, in short, cover the cost of Customs Commercial Operations that traditionally had been paid for out of regular appropriations. The President has requested a total of $499.2 million to be paid out of the special Customs User Fee Account for Commercial Operations in Fiscal 1988.

In my view there are still two unresolved issues regarding these fees. First, the legislation seems to be quite clear that ALL fees collected, including processing fees, should be deposited into the Customs User Fee Account to be available for Commercial Operations. OMB seems to still disagree with this interpretation of the law.

Secondly, the legislation seems to call for an enhanced level of service to those who pay the fees, including airlines; airline passengers; and commercial shippers who pay the Ad Valorem fee on cargo shipments. The Administration seems to think that commercial operations levels means "the status quo" or even a reduced level of service, as evidenced by the fiscal 1988 budget.

How can you conduct your commercial business this year without knowing exactly how much you will have in the fund to conduct commercial operations; and how can you provide an enhanced level of commercial services if the President is constantly cutting your staffing back?

Commissioner von Raab: The $499.2 million request for the Commercial Operations Activity in FY 1988 reflects the funding requirements for the proposed staffing for that year. According to available projections, Customs Ad Valorem user fees in FY 1988 should be more than sufficient to cover this amount.

Although the authorized staffing levels are proposed for reduction, Customs believes that its new selectivity procedures and automated systems, especially the Automated Commercial System, will more than offset the staffing reductions. Commercial services will be maintained and we do not envision any problems in providing efficient service.

CHET PROCUREMENT

Senator DeConcini: Title II of the Continuing Resolution assumes that an additional $40 million will be appropriated to Customs for the purchase of eight (8) additional High Endurance Tracker or CHET aircraft. These aircraft would be equipped with F-16 radar and FLIRs for use in your air interdiction program.

Your letter of February 20th, in which you outline your current air program spending plan,indicates that you intend to reallocate a good part of that $40 million for other air program projects. One of those projects is to retrofit the current fleet of C-12 aircraft with air-to-air radar (11 aircraft to be modified). Can you explain to the Committee exactly what you intend to do with the money that was appropriated for CHETs and tell us why your ideas are better than the one originally envisioned in the Drug Bill? I am not being critical, but I do want to hear your rationale for reprogramming the money for CHETs.

Commissioner von Raab: Customs decided to redistribute these funds to improve the overall effectiveness of the Air Program and still meet the intent of the committee to provide additional sensor equipped aircraft.

C-12 Modification	=	$14,265,000
E-2C O&M	=	10,000,000
C3I	=	15,735,000
TOTAL		$40,000,000

The C-12 modification will equip existing aircraft with state-of-the-art sensor equipment instead of purchasing new aircraft.

The E-2C O&M funds will allow operation of the E-2C aircraft during FY-87.

The additional funds for C3I will speed up implementation of the C3I Centers by allowing us to complete the core of all three centers in FY-87.

BAHAMAS STAFFING & TRAINING

Senator DeConcini: The drug bill and the Continuing Resolution also assume that $3 million and 70 additional positions for air interdiction officers and radar operators will be provided by Customs for use in conjunction with the U.S.-Bahamas Task Force. Both bills also assume that Customs will spend $2.6 million for additional marine interdiction interceptor vessels, including $600,000 for vessels for the Bahamas Task Force. What is the status of your efforts to staff up for the Bahamas Task Force air operations and purchase the interceptor vessels for use in that Task Force?

Commissioner von Raab: We are planning to establish a permanent air interdiction unit at Guantanamo Bay through the use of TDY personnel.

This unit will be established to support the U.S./Bahamas Task Force and other regional air interdiction operations.

The unit, consisting of two interceptor/tracker aircraft, will be staffed with 33 pilots, air interdiction officers, and radar operators.

We plan to continue joint operations with the DEA and the Bahamian Strike Force operating out of Homestead AFB, Florida.

Presently, we are conducting continuing operations out of Guantanamo 7 days a week, 16 hours per day in conjunction with the Coast Guard and the Bahamas Task Force. We are rotating our crews on a TDY basis from Miami and Jacksonville.

The Customs Service received $10 M for the Bahamian Task Force. We have allocated those funds to ensure that we meet the helicopter and communications issues. In an agreement with the Coast Guard, we will provide them $7,000,000 for operation of the helicopters and $1,000,000 to establish a Bahamian Islands Communications System. The remaining $2,000,000 will be used by the Customs Service to enhance the aerostat for marine detection.

The Customs Service is also committed to placing interceptor vessels, currently in the Customs inventory, in Bimini in support of the Bahamian effort.

This has been approved by the U.S. Ambassador to the Bahamas and we are in final negotiations to facilitate this increased operational effort in the Bahamas.

USER FEES: OVERTIME

Senator DeConcini: One of the major complaints I hear from user fee payers, including the airline and shipping industry groups, is that there is substantial uncertainty about the availability of overtime to cover off-peak servicing by Customs. Despite a permanent indefinite account that is supposed to have funds available for overtime without Congressional appropriations, I am hearing that Customs is attempting to limit the amount of overtime it will provide. Since these services are supposed to come directly out of the fees paid by the industries receiving the service, I do not understand why there is any problem with Customs providing overtime service to its customers. Can you explain to this committee why there appears to be considerable discontent over the overtime issue at Customs, even after user fee legislation was passed to address this legislation.

Commissioner von Raab: We are unaware that there is any considerable discontent regarding provisions of overtime services. We plan to continue to provide at least the same level of overtime services as last year, as needed and requested. In fact, currently we are providing overtime services at a slightly higher level this year than we did last year. Of course, we will be limited by the amount of resources available in the user fee account, and the $25,000 congressionally mandated overtime cap.

CORPUS CHRISTI & SAN ANGELO

Senator DeConcini: Your Air Program Reorganization plan indicates that you intend to establish an Aviation Branch at San Angelo, Texas and a Surveillance Operations Center at the Naval Air Station at Corpus Christi, Texas. Could you outline for the Subcommittee why these two sites were selected and what specific resources you plan to put into these two locations in fiscal 1987 and 1988?

Commissioner von Raab: These two sites were selected for the following reasons:

San Angelo:

Adequate facilities are unavailable in San Antonio.

San Angelo is situated in a more central location between El Paso and Houston Aviation Branches.

San Angelo is in a good position to respond to targets penetrating the Big Bend area of Texas.

The resources we plan to put here are:

32 personnel
1 CHET
1 C-12
2 Black Hawks

Corpus Christi:

Centralized location for P-3 operations to Florida, Gulf of Mexico and southwest border.

Close proximity to southwest border for operation of E-2C.

Facilities are available on the Naval Air Station to support large surveillance aircraft.

The resources we plan to put here are:

70 Personnel
4 P-3A Aircraft
2 E-2C Aircraft
1 NOMAD
1 Shorts SkyVan

HIGH SPEED JET INTERCEPTOR

Senator DeConcini: The total authorization and appropriation recommended for Customs in the drug bill and the Continuing Resolution, also assumes that Customs will purchase two additional high speed jet interceptor aircraft with F-16 and FLIR.

I also understand that you have been negotiating with the Postal Service to purchase their Citation II executive jet and convert it to a drug interdiction aircraft. What is the status of your high speed jet interceptor procurement plans, including the Postal Service jet that they are selling to Customs?

Commissioner von Raab: The Customs Service has six Citation II aircraft equipped with F-16 radar and infrared devices. Last year, we obligated money to purchase and modify two additional Citation II's with identical equipment as installed on the original aircraft.

We have contracted for modification of these Citations and we are presently identifying the design configuration for the contractor. Delivery of these two Citations is expected to occur around October 1, 1987.

We recently finalized procurement of the Postal Service Citation and have transported this aircraft to San Antonio pending modification.

The U.S. Attorney's Office is pursuing a summary judgement on the Citation II that is under seizure in Tampa. In the event that a summary judgement can not be obtained, the case will be presented to the court for forfeiture in June, 1987. Actual forfeiture of the aircraft will depend on the number of cases to be tried and whether or not a continuance is requested. The earliest possible date for a court decision will be July, 1987.

To counteract the possibility that the seized aircraft will not be forfeited to the Customs Service, we have instructed R&D to purchase one additional aircraft from the $10M allocation for this project. To date, we have obligated $6.5M for aircraft and sensor system purchase. The remaining $3.5M will be utilized for integration of the sensors into the two aircraft.

	Current A/C	New A/C
Miami	2	
Jacksonville	1	
New Orleans	1	
Houston		1
San Antonio	1	
Albuquerque		1
Tucson	1	1
San Diego		1
TOTAL	6	4

STATUS OF NOMAD

Senator DeConcini: Last year, Customs and DoD cut a deal with the Australian Government to take delivery of seven (7) Australian NOMAD aircraft through the foreign military credit sales program and at no purchase cost to Customs. The deal was, as I understand it, that if Customs took the aircraft to be used in its marine interdiction effort, then the Australians would equip them with the radar and sensor package that Customs wanted. I understand that 4 months later, Customs and the Australians are still negotiating over the final radar and sensor package to be put in the aircraft.

Obviously, any delay in putting these aircraft into service will only hurt our national drug interdiction effort in the marine environment. What is the latest report on the NOMADS and when can the Subcommittee expect to see these aircraft in service? We need to know so that we can determine your other aircraft requirements for fiscal 1988.

Commissioner von Raab: We are currently performing technical negotiations with the Australian Government regarding the configuration of the NOMAD aircraft.

The Customs Service has received and is reviewing the final aircraft specifications. If the specification is acceptable, we expect to sign an agreement by April 30, 1987. Delivery of the first aircraft is scheduled for 10 months after an agreement is reached.

VOICE PRIVACY

Senator DeConcini: Commissioner, built into the enhanced funding level for Customs in the omnibus drug bill and Title II of the C.R. is approximately $20 million to provide Customs with voice privacy capability in its enforcement programs. Your letter of February 20 indicates that you are shuffling some air program money around to provide HF and single side band secure communications and voice privacy in the air program, but I cannot find any reference to the status of voice privacy in your other program.

Mr. von Raab, can you tell the Committee where you are with improving your voice privacy capability at Customs and how you are spending the money provided last October?

Commissioner von Raab: With the $24 million which includes $3.6 million for new positions, provided in October 1986, Customs will:

1) complete the voice privacy network conversion nationwide;

2) provide 2,036 voice privacy mobile and 1,557 portable radios to enforcement personnel including new positions contained in the drug bill;

3) install 108 privacy mobiles on our current inventory of vessels and aircraft; and

4) loan 600 privacy mobiles to state and local enforcement agencies operating in conjunction with Customs officers along the southern border to insure interoperable private communications.

AUTOMATED COMMERCIAL SYSTEM (ACS)

The President seems to be relying heavily on the partially-completed Automated Commercial System (ACS) at Customs to justify deep staff cuts in virtually all aspects of your operations, including import specialists and inspectors. Yet Customs' automation of its commercial activities has had a somewhat checkered past. Since 1974 Customs has developed the Early Implementation System (EIS) designed to automate programs for import specialists; Automated Cargo Clearance and Enforcement Processing Technique (ACCEPT) designed to help inspectors identify entries; and now ACS that is intended to integrate all aspects of its commerical processing into one automated system.

Senator DeConcini: What leads you to believe that ACS will be the panacea that the Administration seems to think it will be, and allow Customs to make wholesale cuts in the import specialist and inspector workforces? Give us the ACS implementation timetable for the record in detail with estimated or actual costs of ACS broken out.

Commissioner von Raab: The ACS "reduction" of $1,011,000 is actually non-recurring capital costs. The proposed authorized level for FY 1987 includes additional funding of $10,000,000 for ACS.

The Automated Commercial System continues to expand to all major ports of entry; no activities are being curtailed. Our priority is to provide a fully operational automated system to all Customs entities.

Actually, there are no 'wholesale cuts', only a reduction of 192 average positions for Inspection and Control in FY 1988 and not all of these are in the area of commercial cargo processing.

Customs programs and policies over the last several years have stressed doing a better and bigger job with the same resources by:

-Examining a lower percentage of freight, using our selectivity system to target high risk shipments;

-Establishing a policy of centralized examination, deploying our inspectional staff to fewer, better-equipped sites;

-Developing an entry simplification program which will allow us to redeploy our staff to ensure that clerical work is done by clerical personnel, leaving our inspectors and import specialists to perform their technical functions, rather than clerical tasks;

-Developing an automated line release program to accelerate the release of low-risk repetitive shipments; and

-Replacing our paper and labor intensive systems of tracking manifest with an Automated Manifest System (AMS). When fully integrated with the other modules of ACS, the AMS will eliminate the transmittal of paper manifests, automatically perform many of the clerical functions performed by Customs officers, and provide an enforcement screening capability far superior to anything possible with paper manifests.

A detailed implementation timetable is furnished in the chart showd below:

AUTOMATED COMMERCIAL SYSTEM TIMETABLE: 1986-1988

Item	March 1986	March 1987	March 1988 Projections
1. ABI Operations			
-Operational Clients	20	90	150
-Testing	30	110	125
-In Development	60	115	125
Totals	110	315	400
-Software suppliers, service bureaus, port authorities	15	35	45
-% ABI volume to total Customs	20%	30%	45%
2. Total Customs entry volume	7.3 million/year	7.5 million/year	7.8 million/year
3. System Transactions	290,000/day	530,000/day	650,000/day
4. System Functions (ACS)	Collections, liquidations Entry summary processing ABI, daily statements Automated TSUSA Bond processing Fines, Penalties, Foreitures In-bond operations	Enhanced collections User fees Enhanced ABI Census Interface Cargo selectivity Quota integration Line Release New Entry Number Drawback processing Improved bond processing Cargo release through ABI Border release (3461 Alt with bar codes) Automated Manifest(sea) Foreign-manufacturer code Automated exam instructions	Enhanced ABI with quota query Entry summary selectivity Paperless entry summary Warehouse, FTZ processing Harmonized system Periodic payment Automated manifest-air Census interface-nationwide deployment Foreign currency conversion Surety (bond) interface

FY 1982-FY 1987 costs are as follows:

Fiscal Year	Amount ($000)
1982	$ 97
1983	8,419
1984	12,039
1985	26,949
1986	31,469
1987	35,734

BLACK HAWKS

Senator DeConcini: The drug bill authorizes $40 million for the purchase of 8 Blackhawk helicopters by DoD for use in drug interdiction. The Continuing Resolution appropriated only about $18 million for these helicopters.

I understand that Customs has informally been chosen to receive the Blackhawks and may have already taken delivery of some of them. Can you give us an update on the Black Hawks that were authorized and funded in last year's legislation and tell us where will they go?

Commissioner von Raab: The 1987 Appropriations Bill funded four Black Hawk helicopters which are presently being delivered to the Customs Service.

We accepted two of these helicopters on January 21, 1987, and the third one on March 12, 1987. The fourth Black Hawk is expected to be received by April 15, 1987.

The first two Black Hawks went to the New Orleans and Houston Aviation Branches.

The next two Black Hawks have been tentatively assigned to the Aviation Branch in San Angelo, Texas.

NON-RECURRING COSTS: SALARIES AND EXPENSES

Senator DeConcini: Your budget assumes that $11,800,000 can be saved in fiscal year 1988 because of non-recurring costs for the marine interdiction program ($1.1 million); air program staffing ($2.2 million); radio voice privacy ($4.6 million: and the Southwest Border $1.3 million), among others.

Frankly, I find it hard to believe that you can absorb these cutbacks in these critical areas, unless of course you have fully staffed your marine program; fully staffed your air program; accomplished 100 percent voice privacy throughout the agency; and achieved all that you can in staffing and equipment for the Southwest Border. You and I both know that hasn't happened in any of these. Can you tell us why we should go along with these cuts?

Commissioner von Raab: The $11.8 million for non-recurring costs represents one time costs for each of the programs identified. These costs are for equipment purchases, start up costs

for new programs and/or expansion costs for other programs required in one fiscal year that will not recur in the following fiscal year. Therefore, the funding is not carried forward.

Customs will continue to staff the Air, Marine, and Southwest Border programs as well as meet its radio voice privacy requirements in FY 1988.

INSPECTORS/IMPORT SPECIALISTS: CONGRESSIONAL MANDATES

Senator DeConcini: Built into the funding levels provided to Customs last year in the Continuing Resolution, were some assumptions that you would substantially increase your inspector and import specialist workforces. The Senate Report accompanying your regular 1987 appropriation bill restored the President's proposed staffing cuts and reallocated staff to allow for 314 new inspectors, including 255 for the Southwest Border. The Committee also added another 100 inspectors over and above this level for the Southwest Border. And the Committee added 108 new import specialist slots over the restored budget level.

Can you explain to the Committee why, at least on paper, it appears that Customs has virtually ignored the directives contained in the Senate Report -- directives that were incorporated by reference in the conference report on the Continuing Resolution?

Commissioner von Raab: The chart you have referenced on page 43 of the Congressional submission compares the actual number of average positions used in 1986 with the proposed new level for 1987. This 1987 level incorporates the proposed rescission of 1,485 average positions which was conceived after the allocation of resources provided in the 1987 appropriation.

Soon after the 1987 Continuing Resolution was enacted, Customs management met to discuss the allocation of additional resources provided by Congress. The final allocation was determined based on Senate and House directives contained in the reports accompanying the FY 1987 appropriation bill, the 1987 Continuing Resolution, Congressional priorities contained in the Anti-Drug Abuse Act of 1986 and its accompanying reports, on-board staffing levels at the time of enactment, and priorities determined by Customs. Whenever possible, Customs allocated the full contingent of resources prescribed in the Congressional Reports. In some cases the allocation exceeded the Congressional directives. These resources were, in fact, allocated to the field.

Senator DeConcini: Could you provide a detailed side-by-side response for the record, showing how in each instance Customs has responded to the directives and recommendations in both the Senate Report (99-406) and the House Report that accompanied the House version of the Treasury, Postal Service bill for 1987?

Commissioner von Raab: The following chart provides detail on Customs response to directives and recommendations contained in Senate Report 99-406 and House Report 99-723, which accompanied Customs FY 1987 appropriation bill.

Senate Report 99-406

DESCRIPTION	STATUS
1. Staffing: Assign additional positions as follows: 149 for air interdiction, 34 for C3I's and 100 inspectors for the Southwest Border districts.	Assigned as follows: 345 for the air program including 34 for C3I's and 202 inspectors for the Southwest Border.
2. Dulles International Airport Traffic: Review passenger facilitation and take steps to improve, if necessary.	Under review.
3. Charleston, West Virginia: Maintain port intact in FY 1987; no effort should be made to close or reduce operations.	No plans to close or reduce operations.
4. Port of Entry, North Dakota: Make no effort to close, or reduce operations at Northern border ports.	No effort has been made to close or reduce operations.
5. St. Albans, Vermont: Take no action to close, consolidate or shift operations from this district and include one commercial port of entry in Vermont in the northern border strategy to create 12 commercial cargo areas.	No changes to operations to St. Albans, Vt. have occured; if the northern border strategy is adopted, three Vermont ports may be used as commercial cargo areas.
6. Satellite II, Los Angeles, CA: Continue providing services at this facility. (also in House Report 99-723)	Service is being continued at Satellite II, LA.
7. Single 8-Hour Shifts at Airports: Prohibits the implementation of such shifts and the establishment of user fees for additional shifts (also in House Report 99-723).	No plans presently exist to implement single 8-hour shifts.

8. Radar Detection:	
Allocate $235,000 from O&M for a feasibility and application study for a low level radar detection system with the Los Alamos National Laboratory (LANL) (also in House Report 99-723).	Currently working with LANL to ensure maximum operational benefit will occur.
9. C3I:	
Establish C3I's at Miami, Houston, and March Air Force Base and a national center at Oklahoma City.	Facilities will be established in Miami, Houston, and March Air Force Base and design work is continuing on the Oklahoma City facility.
10. P-3/E2C:	
Retain all P-3A/APG-63 aircraft upon receipt of Navy E2C's.	Presently four P-3A's and 2 Navy E2C's have been deployed.

House Report 99-723

1. Staffing:	
Assign staff as follows: Los Angeles-150, Port of Oakland-10, Seattle-40, El Paso-25, San Diego-20, Hawaii-24, Baltimore-12, Dallas/Fort Worth-25.	Assigned as follows: Los Angeles-143 (including 29 air positions in Riverside CA); Port of Oakland-10; Seattle-18; El Paso-57; San Diego-85; Hawaii-14; Baltimore-17; Dallas/Fort Worth-42 (including 32 air positions in Oklahoma City, OK).
2. Consolidation of Administrative Functions:	
Savings attributable to such consolidations should be used to meet emergency requirements for commercial and air operations or for adding line positions.	Any savings would be used for specific purposes.
3. Pontiac/Oakland Airport in Michigan:	
Should be designated as a reimbursable Customs port of entry by the Secretary of Treasury.	No such designation has been made.

4. San Diego, Ca:

Allocate $2.5 million from available funds for planning, design, and construction of an operations and control facility at North Island NAS, California.	Customs is in the process of submitting a plan to the Department of Treasury for approval, as required by the OMB apportionment.

AUTOMATED COMMERCIAL SYSTEM (ACS)

The General Accounting Office just released a report that was critical of the Customs Service's Automated Commercial System (ACS).

GAO found that Customs had failed to establish adequate controls to prevent employees from unwarranted access to ACS functions not required to perform their specific jobs, among other things.

In view of the fact that Customs has spent or budgeted for nearly $56 million for ACS to-date and that the lifecycle cost of ACS could approach $2 billion, I believe it is important for Customs to address these security problems.

Senator DeConcini: What steps are you taking to address the GAO criticisms of ACS, particularly on the matter of ACS security safeguards? (GAO Report IMTEC-87-10)

Commissioner von Raab: In my November 25, 1986, response to the draft GAO report, I indicated that adequate security controls do exist for ACS. Customs does agree, however, that a security administration problem exists rather than one of system design.

To improve the administration of functional access, Customs is in the process of: (1) drafting updated guidelines emphasizing the "separation of duties principle"; (2) developing a policy on initiating periodic annual reviews, by Regional administrators, of assigned functions; and (3) investigating the possibility of transferring responsibility for functional security control to local Customs managers.

ACS is a resounding success. With ACS, Customs is handling a dramatically increasing volume of importations without corresponding increases in staff.

BAHAMIAN HELICOPTERS

Senator DeConcini: The Drug Bill authorized $9 million for the purchase of twin engine helicopters to be used by Customs as part of the U.S.-Bahamas Task Force. Since enactment of the drug bill I understand that the Air Force has agreed to provide CH-3 helicopters to Coast Guard for use in the Task Force.

In the meantime, I am informed that Customs had planned to purchase three S-76/type helicopters at substantially less O&M costs than the CH-3s. In fact, I understand that the CH-3 costs nearly $1,145 per hour or $1.1 million a year to operate and maintain, while your helicopters would only cost $440 per hour and $440,000 a year to operate and maintain.

At these cost savings, I cannot see why the Air Force CH-3s are such a good deal for the Task Force. Are you planning to go ahead

with your more cost-effective procurement of the S-76/type helicopters for the Task Force and if not, why not? I would recommend that you do so to increase helicopter support for the Task Force.

Commissioner von Raab: The Customs Service has agreed to let the Coast Guard be the responsible agency to augment Operation BAT.

As a result of this agreement, the $10M appropriated to the Customs Service will be shared with the Coast Guard. The Coast Guard will be reimbursed $7M for operation of the helicopters and $1M for establishment of a Bahama Island Communication System.

BAHAMAS TASK FORCE TRACKERS

Senator DeConcini: The drug bill's total authorization level for Customs and Title II of the Continuing Resolution, assumed that the agency would received $40 million to purchase 8 new high endurance trackers with F-16 radars and FLIRs. Two of these trackers were targeted to be used as part of the U.S.-Bahamas Task Force.

I understand that you may now have other plans for the $40 million with regard to aircraft procurement, but I am also assuming that you will still dedicate two of your aircraft to the operations of the Bahamas Drug Task Force, as assumed in the drug bill. Could you give us a status report on Customs plans to purchase high endurance trackers with F-16 and FLIR and what your plans are for supporting the Bahamas Task Force with some of those planes?

Commissioner von Raab: In regard to the $40 M for aircraft procurement, rather than obligating those funds for eight additional CHETs we have allocated $10 M for one time start-up cost associated with the recent acquisition of two E-2C and the 1987 operation and maintenance of those aircraft.

We further provided $14.265 M to modify six recently acquired C-12s from the Army with acquisition radars and forward looking infrared radars.

The remaining $15.735 M was placed into the C3I account to be added to that already appropriated for C3I purposes allowing us to achieve full operational capability at all three C3I locations.

Our plan is to place two interceptor/trackers in Guantanamo, Cuba to track suspect targets that are the traditional threat to the Bahamas and southeastern United States.

This effort will of course, be in direct support of Operation BAT as well as other regional interdiction efforts.

AIRCRAFT DELIVERY SCHEDULE

Senator DeConcini: For the record tell us what the procurement timetable for these various aircraft procurements is?

Commissioner von Raab: The eight CHET aircraft procurement has been completed.

The C-12 program is in the design phase with the contractor. My estimate on the first operationally available aircraft is 12 months.

There are some unavoidable long lead items. As an example, the aircraft has never been modified with an F-16 radar or any other type air acquisition radar. This requires a one time delay in the design of the system.

NOTE: Inventory of tracker/interceptor aircraft in the Customs fleet:

10 Citations - (6 fully sensored, 2 being modified and 2 to be sensored)

8 CHETs - (fully sensored)

11 C-12s - type aircraft (to be sensored, 5 now partially sensored)

29 **Total Tracker/Interceptor**

11 Black Hawks - (Army to deliver 1 additional aircraft within 30 days)

4 P-3s - (All sensored with radar & FLIRs, one to be modified in June with COMINT)

S&E: PORNOGRAPHY ENFORCEMENT BY CUSTOMS

Senator DeConcini: Towards the end of your statement you indicate that Customs is aggressively investigating pornography cases, especially where large volume dealers, organized crime, or child pornography are involved.

Tell us what level of resources you will devote to the anti-pornography effort in fiscal year 1988; how that compares with FY 1987; and what specific conclusions you are reaching about the magnitude of the pornography problem, particularly child pornography?

Commissioner vo Raab: Currently, Customs has 60 special agents in major port areas in the U.S., who are designated to work child pornography cases. We plan to step up enforcement efforts at our 22 foreign mail facilities through an increase in staffing and selective enforcement via intelligence from proven enforcement actions. We are utilizing our worldwide network of Attache offices to work with host country enforcement officials. Customs is shifting its' emphasis from user/recipient to producer/distributor. Customs continues to include other Federal, state, and local law enforcement agencies in sting operations, as multi-jurisdictions are encountered during such

activities. The names of large volume commercial dealers are being entered into ACS for intensified inspection. Customs is actively participating in the Council on Pornography, along with the Department of Justice and the Postal Service. The total volume of pornography seizures were up in FY 1986, as compared to FY 1985. The majority of the pornography seizures in FY 1986 were child pornography related.

TACTICAL INTELLIGENCE

Senator DeConcini: The new drug bill gives Customs broad new authority to conduct undercover investigations both here and overseas, as I read the law. I also notice in your statement that you appear to be giving greater emphasis to Customs gathering its own intelligence as opposed to relying on DEA or other agecies to provide it for you. Frankly, in view of DEA's rather dismal record in providing time-sensitive tactical intelligence for your interdiction programs, I do not blame Customs for 'going it alone'. In fact, I would encourage Customs to develop its own intelligence sources to support and enhance its primary interdiction efforts.

What other measures will you be taking in fiscal 1987 and 1988 to develop your own means for gathering time sensitive, tactical intelligence for your anti-drug effort and other enforcement programs?

Commissioner von Raab: Customs is presently developing a system of Command, Control, Communications and Intelligence (C3I) Centers to improve the deployment of our own interdiction assets. In this program too, we are in close contact with other law enforcement agencies. We have been improving our radars and radar platforms, including the newly acquired E-2C radar aircraft to improve our ability to detect suspicious movements over the border areas. Within the Customs Office of Intelligence we have been improving our capabilities for acquiring and disseminating tactical intellgence by expanding our secure communications capabilities and developing twenty-four hour intelligence watch centers at headquarters and in the field. As one of our newest innovations a Customs Officer is assigned to the DEA country offices and DEA Headquarters as listed below, to review DEA reports and identify tactical intelligence.

1. Bogota, Colombia
2. Caracus, Venezuala
3. Mexico City, Mexico
4. Nassau, Bahamas

NEW DOD ASSETS

Senator DeConcini: As you recall, the so-called DeConcini amendment to the Drug Bill calls for the Department of Defense to prepare a comprehensive inventory of all military assets that can be turned over to civilian drug enforcement agencies, including Customs. That report is due and I understand is in draft form. If all elements of the amendment are followed to the letter, your agency and others should be signing interagency agreements to receive these DoD assets within the next six months.

Implicit in my amendment was that Customs and the other agencies would actively participate in the formulation of this inventory development plan and, of course, in its final disposition to the agencies. What are you hearing about the type of assets that could be turned over to Customs under the DeConcini amendment plan, and will you be prepared to dedicate staff to operate and maintain any new DOD assets coming your way?

Commissioner von Raab: Customs has not been notified of the type of equipment to be made available to civilian drug enforcement agencies. Should usable equipment be made available, the Customs Air Program will have adequate staff to operate and maintain those assets.

FORFEITURE FUND

Senator DeConcini: You are requesting only $10 million to be authorized for expenditure out of the Customs Forfeiture Fund-a cut of $8 million below the level provided in fiscal 1987.

There has been much criticism in recent weeks about long delays in turning over assets to state and local agencies that have been seized by the Justice Department, including currency that sometimes takes two years to be available for re-use by the Department or a state and local agency that helped in the initial seizure. I am assuming that Customs may be suffering some of the same problems in the administration of its forfeiture fund. Can you tell the Committee what the estimated balance is in the Customs Forfeiture Fund and what your track record has been to-date in using the proceeds from the activities and purposes authorized by current law, including the new Drug Bill?

Commissioner von Raab: At the end of the first quarter of FY 1987, Customs had $22 million in the Forfeiture fund, including $10 million carried forward from FY 1986. Of this amount $18 million is available for use in FY 1987. In FY 1986, Customs used $7.5 million of the $7.7 million available for use.

Customs uses the funds for: expenses related to seizures; awards to informants; payment of liens; equipping enforcement vehicles, vessels and aircraft; purchase of evidence; costs of investigative efforts related to seizure; and, destruction of drugs.

BREAKDOWN OF COMMERCIAL OPERATIONS REQUEST

Senator DeConcini: Commissioner, in view of the new way your commercial operations budget will be handled, i.e. through the

Customs User Fee Account, I believe it is important that the Subcommittee receive a detailed analysis of the President's plan to earmark $499.2 million out of this fund for Commercial Operations activities in Fiscal 1988. I also believe we should have a three year breakdown for comparison purposes, including a crosswalk of both the dollars and staff among the various activities that traditionally have contained commercial operations (Tariff and Trade; Inspection and Control; and the like.)

I understand that our staff has asked for this information, but I wanted to formally request as much detailed breakdown as you can provide for your Commercial Operations request for 1988 and compare it to the past few years. Could you provide that information for me for the Record?

Commissioner von Raab: Funding and staff for Commercial Operations from FY 1986 to FY 1988 are provided below:

COMMERCIAL ACTIVITIES

			Authorized Level		Rescission Level		President's Budget	
	FY 1986 1/		FY 1987 2/		FY 1987 3/		FY 1988 3/	
Activities	Ave Pos	Amount	Ave Pos	Amount	Ave Pos	Amount	Ave Pos	Amount
Tariff and Trade	3,407	156.1	3,419	185.6	3,046	197.0	2,928	206.1
Commercial Investigations	271	14.0	291	16.2	282	16.2	272	18.2
Inspections 4/	5,087	246.9	5,290	287.3	4,861	255.6	4,802	274.9
Total	8,765	417.0	9,000	489.1	8,189	468.9	8,001	499.2

1/ Based on authorized level of 14,041 average positions

2/ Based on authorized level of 15,037 average positions

3/ Assumes President's Budget for FY 1987/88

4/ Excludes Inspection and Control resources for canine and other enforcement related activities (i.e., pornography, Exodus, and some CET's), approximately 50 percent of resources for passenger processing, which includes secondary inspection, and some inspectional support costs

Senator DeConcini: The President is requesting that $499.2 million be earmarked for commercial operations in Fiscal Year 1988, with the funds to come out of the Customs User Fee Account rather than through direct appropriations. Frankly, it is difficult to tell from your budget justifications whether this level of support for Commercial Operations constitutes a cut, an increase, or the status quo. If I had to bet on it, I would assume that Commercial Operations are being cutback below current level. Can you shed some light on how your fiscal 1988 commercial operations budget compares to fiscal 1987 and fiscal 1986, both in dollars and staffing?

Commissioner von Raab: The FY 1988 request for the Commercial Operations activity represents an increase of $30.3 million and a decrease of 188 average positions when compared to the FY 1987

proposed authorized level. It also represents an increase of $82.2 million and a decrease of 764 average positions compared to FY 1986.

Senator DeConcini: Commissioner, I don't understand why the President would be cutting back on Commercial Operations, especially since those activities are now covered by a user fee rather than direct tax dollars. For example, if the Fiscal 1987 User Fee balance is "rolled over" into fiscal 1988 (likely) and collections for fiscal 1988 are about what OMB says they will be, there should be approximately $700-800 million available for Commercial Operations next year. The President could increase your Commercial Operations by $100 million, for example, and really help out the import-export community and still have money left over to count against the deficit. What was OMB's rationale for giving you such a low Commercial Operations level of funding in 1988?

Commissioner von Raab: The OMB passback was provided to Customs in the form of total funding and staffing levels. The only stipulation was a minimum resource level for drug enforcement.

Customs has made great strides in selectivity and automation, accounting for a lower level of funding for commercial operations. We are aggressively pursuing new procedures that have resulted in substantial savings in staffing and will enable us to process our increasing workload with a much reduced staff.

Development of the Automated Commercial System (ACS) is providing increasing labor saving procedures. For example, with the use of the Daily Statement, hundreds of collections can be processed with just one transaction. As a result of the Automated Broker Interface, data input responsibilities are shifting from Customs to brokerage firms.

Introduction of selectivity concepts to cargo processing, both in examinations and entry summary reviews, has resulted in substantial savings in import specialist and inspector manhours. By establishing a policy of centralized examination, we are able to deploy our inspectional staff to fewer, better-equipped sites. Developing an entry simplification program will allow us to deploy our staff to ensure that clerical work is done by clerical personnel, leaving our inspectors and import specialists to perform their technical functions, rather than clerical tasks. Developing an automated line release program accelerates the release of low-risk repetitive shipments.

Finally, we are replacing our paper and labor intensive systems of tracking manifests with an Automated Manifest System (AMS). When fully integrated with the other modules of ACS, the AMS will eliminate the transmittal of paper manifests, automatically perform many of the clerical functions performed by Customs officers, and provide an enforcement screening capability far superior to anything possible with paper manifests.

NOMAD

Senator DeConcini: Last year, Congress significantly increased the budget of the U.S. Customs Service for drug interdiction efforts. Included in this action were funds to equip six (6) C-12 aircraft previously transferred from the inventory of the Army for use in Customs marine drug interdiction efforts. Subsequent to the

transfer of these air assets and the provision of funds to properly equip them for their marine mission, Customs was offered and tentatively accepted seven (7) Australian NOMAD Searchmaster aircraft. It is my understanding that Customs intends to use the NOMAD for the mission previously planned for the C-12s. Has Customs concluded arrangements with the Australian Government to bring the NOMAD into the Customs inventory?

Commissioner von Raab: Arrangements have not been concluded at this time as the technical specifications regarding the aircraft configuration continue to be negotiated. Customs plans to meet with the Australians during the week of March 23 in hopes of finalizing the specifications.

Senator DeConcini: If so, when will the NOMAD be placed into service and begin performing its important marine interdiction role?

Commissioner von Raab: The Australians propose to deliver the first aircraft 10 months after such an agreement is concluded. Upon delivery, each aircraft will, however, go through acceptance tests. Therefore, it is anticipated that the first aircraft will commence marine interdiction missions as early as 11 months after delivery to Customs.

Senator DeConcini: If the arrangements have not been concluded on the NOMAD, has the Service established a firm date certain for finalizing this matter after which the NOMAD will no longer be considered for the Customs inventory?

Commissioner von Raab: No such date has been established by Customs. Ever since Customs tentatively agreed to accept the seven NOMAD aircraft, Customs has negotiated with the Australian Government with full intentions of acquiring the aircraft for the marine interdiction effort.

Senator DeConcini: Will the arrangements for this matter be concluded soon enough to have the NOMAD flying its mission during the current fiscal year?

Commissioner von Raab: No, the Australians propose to deliver the first aircraft 10 months after an agreement is reached. The earliest possible date the NOMAD could be put into service is March 1988, should an agreement be concluded during April 1987.

Senator DeConcini: Please detail the circumstances which have contributed to the delay in concluding the transfer of the NOMAD to Customs and explain the milestones and corresponding dates established by Customs for promptly concluding this matter.

Commissioner von Raab: Arrangements have yet to be reached as a result of the time required to finalize the aircraft specifications and performance requirements which include the performance of the sensor systems selected for use on the NOMAD. Customs is scheduled to meet with the Australian government during the week of March 23, 1987, in an effort to finalize such specifications with the intention of concluding an agreement by April 30, 1987.

Senator DeConcini: I understand that Customs had identified a fully acceptable sensor package for use on the C-12. Although the

air platform to be used for the Customs marine interdiction effort has changed, does the Service intend to use the same sensor package for the NOMAD?

Commissioner von Raab: No, after evaluating the sensor systems available against Customs specifications, the Australians are proposing the Litton APS-504(V5) which they assure will meet Customs requirement. The proposed infrared system is still under consideration and negotiation.

Senator DeConcini: If Customs and the Australian government are unable to satisfactorily conclude the NOMAD matter, will the Service again designate the C-12 for the marine drug interdiction mission?

Commissioner von Raab: No, current plans are to equip the C-12's with acquisition radars and FLIRs and utilize them as airborne trackers. The Anit-Drug Abuse Act of 1986 provided Customs with $14M (No-year Funds) for the procurement and installation of such systems.

COTTON RESEARCH AND PROMOTION FEE

Senator DeConcini: Mr. von Raab, if legislation is passed requiring assessment of the cotton research and promotion fee (currently $1.00 per bale plus 0.6 percent of the value of the cotton) on the cotton content of imported textiles and apparel, what would be the approximate cost for the Customs Service to assess, collect, and forward the fee to the Cotton Board?

Commissioner von Raab: The Tariff Schedules of the United States, Annotated (TSUSA), description of products "of cotton" defines products in chief value of cotton. Those products must now be identified and charged duty accordingly. However, many products not in chief value of cotton are not identified in the TSUSA as containing cotton and such information is not generally available on a Customs entry. The universe of TSUSA items that includes cotton in various forms and products containing cotton is extremely large.

However, if legislation were enacted to impose an import fee on all products containing cotton specified by TSUSA item number and based on existing information requirements, it would cost Customs an estimated $604,000 annually (based on 1986 textile statistics) to collect and forward such fee, plus initial start-up costs of approximately $21,000.

It must be stressed that these estimates could vary significantly based on the definition of the products intended to be subject to such fee.

Senator DeConcini: If enabling legislation were passed, does the Customs Service, based on its experience with beef and pork programs, have suggestions which could be made available to the Cotton Board which would enable the Service to carry out its role in a more efficient and cost effective manner?

Commissioner von Raab: The Customs Service will gladly work with the Department of Agriculture to efficiently implement and process the collection of such fees. Based on our experiences with similar legislation, Customs has a number of suggestions that will

enhance efficiency and reduce costs in collecting the proposed fees on imported cotton.

We hope that the USDA office responsible for cooperating with the Cotton Board in drafting and implementing appropriate regulations will work closely with Customs Office of the Chief Counsel. The Chief Counsel's legal staff is well versed in Customs laws and procedures and will ensure that regulations for such a cotton fee are compatible with existing regulatory procedures. Such compatibility, of course, will ensure maximum cost effectiveness and efficiency.

A primary consideration in the legislation under discussion is that Customs must be authorized by statute or regulation to collect and remit such fees on behalf of the Secretary of Agriculture. Other technical suggestions intended to enhance efficiency in collecting such fees on imported products follow:

- Such fees must be Tariff-specific; that is, all items intended to be subject to the fee be defined in tariff terminology, preferably citing specific TSUSA (Tariff Schedules of the United States, Annotated) numbers. This eliminates errors in application of the fee.
- Such fee amounts should be cited as a percentage of the Customs appraised value and/or based on an existing statistical reporting number (e.g., per dozen, per pound). This eliminates the need to require additional data and to apply additional processing to affected imports. Currently, the value of the cotton content is not required or available for products containing cotton.
- The payment of such fees should be cited as the responsibility of the importer of record.
- Procedures for administering refunds or rebates of these import fees should be established by the Cotton Board.

Questions Submitted by Senator Barbara A. Mikulski

CLASSIFICATION OF TANK AND REFRIGERATED CONTAINERS

Senator Mikulski: In 1982, Congress removed duty payment on cargo containers of 20 and 40 feet, declaring them "instruments of international commerce". When Congress changed the law, it did not explicitly refer to refrigerated and tank containers of the same length.

Since the law was passed, Customs has chosen to continue duties on these containers, even though they are virtually identical to the other kinds of containers and are handled in the exact same way.

The net effect of these duties on potential U.S. exporters is they are subject to an added cost per container of $800 to $2000.

What do you know about this situation, Mr. Commissioner?

Commissioner von Raab: I am not personally familiar with this situation. However, the facts here require some clarification. Public Law 97-446, to which you refer, provided for the temporary suspension of duty on containers provided for under item 640.30, TSUS, which have a gross mass rating of at least 40,000 lbs. This suspension of duty remained effective until the rate of duty under item 640.30 was reduced to zero under the GATT.

Certain containers designated by the Secretary of the Treasury as instruments of international traffic (IIT'S) enter free of duty under item 808.00, TSUS. Any container designated as an IIT which is used solely in international traffic is free of duty. When such a container is diverted to domestic use, it becomes dutiable. Although refrigerated (reefer) containers and tank containers, those having heating coils and used to transport chemicals and other liquids which require controlled heat, are among those that may qualify for duty-free treatment when used solely in international traffic, when they are used in both domestic and international traffic, they are subject to duty.

In such cases, classification of these containers under the free provision in item 640.30, TSUS, is precluded because of a headnote in the tariff which denies 640.30 coverage to those containers with mechanical or thermal equipment such as heating or cooling coils.

Customs has ruled administratively that refrigerated (reefer) containers are refrigerators and refrigerated equipment, classifiable in item 661.35, TSUS, dutiable in 1987 at the rate of 2.9 percent ad valorem. There is no specific provision in the tariff schedules which would cover the tank containers. They have been held to be classifiable under the provision for other articles of iron or steel, not coated or plated with precious metal, in item 657.25, TSUS, dutiable at the rate of 5.7 percent ad valorem. Containers without mechanical or thermal equipment such as heating or cooling coils, would be subject to free entry under item 640.30, TSUS, provided they are of base metal construction and are chiefly used in the packing, transporting, or marketing of goods.

Senator Mikulski: Can you clarify and remove these duty payments administratively or do you need specific direction from this Committee to take that action?

Commissioner von Raab: We are unable to remove these duty requirements administratively. Legislation would be required to make this merchandise duty-free.

Questions Submitted by Senator Pete V. Domenici

OPERATION ALLIANCE (SOUTHWEST BORDER INITIATIVE)

Senator Domenici: Would you please give this subcommittee a status report on Customs operations as part of Operation Alliance?

Commissioner von Raab: Customs enforcement resources are being deployed along the Southwest border in such a way as to provide maximum coverage while utilizing available manpower. New Special Agent and Customs Investigator positions are being filled by converting 1884 job series personnel, and the Treasury Enforcement Agent examination. There are approximately 182 special agents and customs investigators dedicated to support Operation Alliance. There have been 83 Customs Spcial Agents cross designated by the Drug Enforcement Administration to conduct narcotics investigations along the border in the Southwest and Pacific Regions in support of Operation Alliance. State and local law enforcement agencies participating in the operation provide added manpower and equipment in a coordinated effort to interdict narcotics crossing our southwest border. A training program for state and local enforcement participants is being planned now. This training will provide them with a working knowledge of Customs laws and regulations as they relate to the smuggling of contraband into and out of the United States. A training program aimed at providing approximately 1200 INS Border Patrol Agents with limited Title 19 authority began on March 17, 1987. Overall, joint enforcement actions conducted on suspect smuggling corridors along the southwest border have been very successful. The amounts of narcotics being seized indicates that they will grow in size as the operation continues.

EXAMPLE: From July 1, 1986 to January 24, 1987, there were 26,000 pounds of marijuana seized, overall.

EXAMPLE: On March 11, 1987, 1,186 pounds of marijuana was seized in a joint investigation by Customs, DEA and the El Paso, Texas, Police Department.

Through the operations first 79 days the San Diego Joint Group, composed of 10 Customs agents and 10 DEA agents effected 59 arrests, and obtained 31 criminal indictments.

Senator Domenici: What enhancements to your Southwest Border efforts are being made as a result of the additional funding provided in the Drug Supplemental included in the FY 1987 Continuing Appropriations Resolution?

Commissioner von Raab: The following resources are provided in FY 1987 for the Southwest Border initiative:

Increased Staffing		$32,500,000
Equipment		$21,164,000
Radar for Gulf Coast	$7,500,000	
Secondary Inspection Support	2,900,000	
Radios	4,000,000	
Marine Equipment	6,148,000	
O&M Funding for Vessels	162,000	
Small Boat Stations	54,000	

Staffing for this initiative included 384 positions in FY 1986. In FY 1987, an additional 565 enforcement positions have been allocated to the Southwest and Pacific Regions.

Senator Domenici: What resources are going to my state of New Mexico in support of Operation Alliance?

Commissioner von Raab: Customs has allocated a total of 58 new positions and related funding since FY 1986 to New Mexico in support of Operation Alliance. We have also allocated 10 additional radios and one additional plane to New Mexico.

Senator Domenici: What changes will result in your support of Operation Alliance if the President's revised FY 1987 request is approved?

Commissioner von Raab: There will be no changes in Customs support of Operation Alliance if the President's revised FY 1987 request is approved.

Senator Domenici: What level of resources is included for Operation Alliance as part of the President's FY 1988 request?

Commissioner von Raab: Except for certain one-time, non-recurring equipment costs detailed in Customs FY 1988 budget request, Customs will keep the same level of resources dedicated to Operation Alliancein FY 1988 as in FY 1987.

Senator Domenici: Last year it was estimated that a majority of the marijuana and heroin and 30% of the cocaine smuggled into the U.S. came over the Southwest border.

Is that still the case?

Commissioner von Raab: Preliminary drug threat figures for 1986 were prepared by Customs in late 1985 that reflect the same general assessment of the smuggling threat as the cited figures.

Senator Domenici: How much marijuana, heroin, and cocaine does the Customs Service estimate will be smuggled over the Southwest border this year?

How does that compare with 1986?

Commissioner vor Raab: Preliminary Customs estimates for 1987 are that, in the Southwest, the heroin threat will remain level, the marijuana threat will decrease slightly and the cocaine threat will continue to increase.

INCIDENTS OF VIOLENCE

Senator Domenici: Increased smuggling along the Southwest Border has been accompanied by an increase in violence against U.S. Law Enforcement officers, including the murder of a Customs agent in Arizona last year.

How many incidents of violence have been reported against Customs officers in the past year?

Commissioner von Raab: In the past year, March 1986 to March 1987, there have been 13 assaults on Customs employees, 4 death threats against Customs employees, and 6 shooting incidents reported by Customs employees.

OPERATION ALLIANCE (SOUTHWEST BORDER INITIATIVE)

Senator Domenici: What is your assessment of Operation Alliance at this point?

Commissioner von Raab: After a rocky start, we have worked out a number of logistical problems and my current assessment of the operation is that it has been much more successful than any of us first thought it might be. The Joint Command Group has done an excellent job developing and implementing an aggressive enforcement program dedicated to disrupting and apprehending narcotics smugglers along our Southwest Border. Each Federal agency, along with their state/local counterparts have pulled their share of the load, from the command staff to the agents in the field.

Senator Domenici: Mr. von Raab have you seen an increase in drug-related apprehensions and seizures as a result of Operation Alliance?

Commissioner von Raab: Since the increased enforcement effort along the Southwest border under Operation Alliance began in October 1986, there have been strong increases in the number of arrests made, the amount of cocaine , the number of vehicles and the number of monetary instruments seized. There have been moderate increases in the amount of marijuana seized. The number of weapons and the amount of heroin seized have remained roughly level. Early in the Operation, we enjoyed strong increases in most categories. As the trafficking organizations adjusted to Operation Alliance, arrests and seizures declined to varying degrees. Overall, arrests and seizures still show increases over the situation that prvailed when the Operation began.

Senator Domenici: Specifically, how many drug-related arrests and seizures have occurred in New Mexico as a result of Operation Alliance.

Commissioner von Raab: Customs arrests and seizures for the New Mexico Ports of Albuquerque and Colombus show a decrease in

arrests and marijuana amounts seized and an increase in all other categories.

	Alliance July - Dec. 1986	Pre-Alliance July - Dec. 1985
Arrests	20	32
Heroin	0	0
Cocaine	0.1 lbs.	NEG.
Marijuana	1,099.7 lbs.	2,279.9 lbs.
Monetary Instruments	$98,570	$25,939
Vehicles	34	30
Value	$54,750	$17,065
Aircraft	1	0
Value	$45,000	0

Senator Domenici: The key to Operation Alliance is the cooperation of all the involved federal agencies and the affected state and local governments.

Are you satisfied that you are receiving the level of cooperation to make Operation Alliance a success?

Commissioner von Raab: Operation Alliance works through a Joint Command Group, composed of federal, state and local agencies, established to create and maintain the highest cooperative spirit among agencies. This Command Group is staffed by senior enforcement personnel from the Customs Service, U.S. Coast Guard, Drug Enforcement Administration, INS/Border Patrol, Federal Bureau of Investigations, and representatives from state/local agencies in Arizona, California, New Mexico and Texas. In the early stages of the operation there were reports of misunderstandings and alleged cases of misinformation, but these were handled by the Joint Command Group in such a way as to preclude their re-occurance. I feel that all agencies involved in Operation Alliance are fully dedicated to making it the most successful enforcement initiative in recent years. Each agency is doing its part to develop multi-agency enforcement programs where cooperation among agencies will disrupt the narcotics smuggling community.

AIRCRAFT FOR ALBUQUERQUE

Senator Domenici: Three aircraft were to be assigned to the Albuquerque Branch for interdiction purposes. Have these aircraft been delivered?

Commissioner von Raab: Both the CHET and the Black Hawk were delivered at the end of February, 1987. The Citation has not been delivered yet. Contract negotiations are presently underway. Upon completion of these negotiations delivery is expected approximately 1 year later.

CUSTOMS STAFFING

Senator Domenici: Commissioner von Raab, there are currently 16 authorized Customs inspector positions in New Mexico (2 in Albuquerque, 2 in Antelope Wells, and 12 in Columbus). Are all of these positions currently filled?

Commissioner von Raab: The positions at Columbus and Antelope Wells are currently filled. There is one vacancy at Albuquerque but a selection has been made to fill this position.

Senator Domenici: Does the Customs Service feel that this is an adequate number of inspectors in New Mexico or are additional personnel necessary?

Commissioner von Raab: At the present time I believe that the number of inspectors is adequate. I would add that we are continually reviewing our staffing along the Southwest border and certainly any additional requirements would be given the highest priority within Customs.

Senator Domenici: Customs personnel in remote areas such as Columbus, NM often have to commute long distances to get to work. For instance, many personnel at Columbus commute every day from El Paso. What is the Customs service doing to address the living conditions of personnel in remote areas?

Commissioner von Raab: We performed a survey of our employees with regard to the living conditions at Columbus and found that the employees preferred the current employment practices to other alternatives.

C3I DISPOSITION

Senator Domenici: There has been considerable discussion with regard to the money provided last year for the C3I. Supplemental legislation has been forwarded to the Congress to delay any action until fiscal year 1988. There is little doubt that this legislation will be enacted. In any event, what is the position of the Department on the disposition of the C3I?

Commissioner von Raab: The Houston Center is already under construction and is expected to be completed this fiscal year. The request contains funds to enhance the March AFB and Miami facilities, as originally planned. Although the Administrations proposed delay in availabilty of air program funds, does not contemplate construction of the Oklahoma City National Command Center, the design work for this facility is underway. The National Drug Enforcement Policy Board is reviewing the plans for this facility.

Senator Baker has personally intervened to resist a request from Senators Chiles and Nunn to stop all C3I development work while GAO studies the issue. The funds for the Air Program are available to

us and the Department expects that we will spend them unless Congress directs otherwise.

CUSTOMS DRUG INTERDICTION ROLE

Senator Domenici: Drug interdiction has become the watchword in the past couple of years. The enactment of last year's drug bill has provided considerable resources to Customs, as well as other agencies. Even though resources have been provided to all of these agencies, I would assume that one agency must have a primary delegation for drug interdiction. Is that a correct assumption?

Commissioner von Raab: The United States Customs Service has primary jurisdiction in the interdiction of narcotics entering the United States. In support of this responsibility, the United States Customs Service has been delegated the statutory authority to conduct warrantless searches of persons and conveyances entering the United States and further has been delegated the authority to arrest persons and seize and forfeit all conveyances and merchandise, including narcotics and monetary instruments, found to be entering the United States contrary to law.

USER FEES

Senator Domenici: What is the amount of receipts expected to be collected from the new Customs Ad Valorem User Fee in each of fiscal years 1987 and 1988?

Commissioner von Raab: In FY 1987, the reported projection for Ad Valorem User Fee receipts is $417 million. The FY 1988 projected collections are $387 million. The projections assume the .22 percent rate for FY 1987 and .17 percent for FY 1988. Imports are projected to remain steady during both years. In addition, the estimates include a significant receipt loss from an increased volume of Schedule 8 imports, which are exempt from the fee. Actual receipts for FY 1987 are apparently above the earlier projections. According to collections through February 1987, it appears that the receipts will reach about $500 million. If this trend continues, we anticipate a corresponding increase for FY 1988.

Senator Domenici: Would you give the subcommittee your explanation on how the merchandise (Ad Valorem) user fee collection process is working?

Commissioner von Raab: The collection and processing of the Ad Valorem merchandise user fee is operating smoothly and with minimal problems. We believe that the procedures developed for the fee collections and for the processing, handling, and reporting of the funds greatly facilitated the implementation of the user fee system. Initially, the collection of fees from all formal entries significantly increased the workload for Customs' cashiers and the revenue collection system. There were some backlogs, but these have been overcome and the system is operating efficiently.

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Senator Domenici: Can you please tell us how Customs is currently implementing the Schedule 8 exemption with respect to merchandise user fee collections?

Commissioner von Raab: Under the current law, Schedule 8 imports are exempt from the Ad Valorem user fee. At this time, we are considering imported products, subject to partial exemption from duty under the Schedule 8 provision, to be fully exempt from the merchandise processing fee.

Senator Domenici: If you had a preference, would you choose to collect user fees on a transaction basis or on an Ad Valorem basis, and why?

Commissioner von Raab: Since 1982, a number of transactions based on user fees were considered by the Congress, the Administration, and the Customs Service. These fees, or processing charges, were based on the costs related to the specific tasks for which a charge was required. These user fees were the means of recovering the specific Customs costs for providing those services. At the time, our position was that the fees should be assessed on those parties who produced the need for the services. We believe that transaction type user fees are more equitable in terms of deriving the costs of the service and in assessing the costs to those who benefit from the service.

Senator Domenici: What is the amount of receipts anticipated from the COBRA passenger/vehicle processing fees in each of Fiscal Years 1987 and 1988?

Commissioner von Raab: The official estimate for COBRA receipts in FY 1987 is $152 million. In FY 1988, the estimate is $160 million. The amount of these receipts to be used for Customs (primarily overtime) costs is $71.4 million in FY 1987 and $73.0 million in FY 1988. We believe that Customs overtime services do provide more than adequate processing services to the importing business community.

Senator Domenici: OMB has established two offsetting receipt accounts on the revenue side of the budget for the deposit of receipts collected from the COBRA and OBRA fees. Do you agree with this budget presentation of the customs user fee receipts?

Commissioner von Raab: When separate receipt were established for the receipts from the Consolidated accounts Omnibus Budget Reconciliation Act of 1985 (COBRA) and the Omnibus Budget Reconciliation Act of 1986 (OBRA), it was believed that the legislation called for separate user fee accounts. The matter was thoroughly discussed and reviewed by all of the involved agencies. It was agreed that the statutory requirements would be best achieved by separate accounts.

However, since the Congress has been raising questions on this matter, the Treasury Department plans to review the entire issue with all involved agencies.

Senator Domenici: Did Customs propose that user fee receipts collected in Fiscal Year 1987 be used to either reimburse or increase the costs of Customs commercial operations in Fiscal Year 1987?

Commissioner von Raab: Customs did not formally propose that the user fee receipts collected in fiscal year 1987 be used to reimburse or increase the costs of Customs commercial operations in Fiscal Year 1987. As we stated earlier, there was uncertainty on the level of anticipated receipts because of the exception given to Schedule 8 imports. Without a firm estimate, it was not possible to develop an accurate budget estimate.

Senator Domenici: Would you please briefly outline the legislative changes being proposed relative to Customs user fees. What is the level of additional receipts anticipated as a result of such legislative changes?

Commissioner von Raab: The major legislative revision proposed for the Omnibus Budget Reconciliation Act of 1986 (OBRA) user fees is the deletion of the current form of the exemption for Schedule 8 imports. In contrast to the imposition duties, the OBRA user fees are exempt not only from that part of the imported merchandise which is included under Schedule 8, but also the entire value of the merchandise.

Therefore, the proposed revision could simulate the current procedures for assessing duty on Schedule 8 imports, which means that only the value of the Schedule 8 part of the merchandise is exempt from the fee. Another alternative is to eliminate the exemption entirely for Schedule 8 imports. Under the former alternative, we project an increase of 10 percent in user fee receipts. For the latter alternative, a projected increase of about 20 percent is probable. Note that these projected increases are based on current receipt collections.

In addition, we have proposed the elimination of the expiration of the user fees. Under current law, the user fees expire in Fiscal Year 1989.

COLUMBUS POE STATISTICS

Senator Domenici: Would you please give me the number of border crossings and import/exports between Mexico and New Mexico through the Columbus, New Mexico, Port of Entry in calendar year 1986?

Commissioner von Raab: In fiscal year 1986, a total of 311,090 vehicles and 929,781 persons passed through the Columbus, New Mexico, port of entry. There were 2,523 merchandise releases which required 7,865 examinations, and 1,148 shippers' export declarations were filed.

NEW MEXICO PORTS OF ENTRY

Senator Domenici: New Mexico now has only one Customs Port of Entry. Has Customs considered establishing additional Ports of Entry in New Mexico? If not, why not, especially given the congestion problems being experienced at El Paso?

Commissioner von Raab: There have not been any port of entry applications from New Mexico recently.

Any applications received will receive careful consideration against our established criteria for creating new ports of entry. Locations not meeting port of entry criteria can have Customs service on a reimbursable basis under the designated user-fee program established by Trade and Tariff Act of 1984. Under this program, service has just been established at Santa Teresa, approximately 20 miles from El Paso. This brings the number of locations serviced by Customs in New Mexico to four.

COMMERCIAL PROCESSING ON THE SOUTHWEST BORDER

Senator Domenici: Commissioner von Raab, will you give us a brief explanation of the actions presently going forth to improve commercial processing facilities on the Southwest border?

Commissioner von Raab: I have established a Southern Land Border Facilities Task Force to determine the facility enhancements required for each of the 24 ports; and to develop short, mid, and long term plans focusing on operational effectiveness and officer safety. The Districts of Nogales, El Paso, and Laredo have submitted long term facility improvement requirements, which will be evaluated by the Task Force. They have also established Public Advisory Committees to discuss and resolve local issues, procedural and operational changes, and facility enhancements. In November 1986 I authorized 2.9 million dollars for the Southern border for inspection support, which will address short term requirements.

BIENNIAL BUDGET CYCLE

Senator Domenici: Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

Commissioner von Raab: The U.S. Customs Service would favor exploring a biennial budget process. Two major benefits would result from a longer cycle: better planning, and better use of resources.

As the Committee is aware, Customs' diverse and substantial responsibilities require major contracting initiatives, such as programming and technical development of the Automated Commercial System (ACS). Because the procurement process takes months, our ability to depend on contractor support is often in doubt. Development schedules and long-range planning lose credibility as projected resource levels change dramatically from one year to the next. Two-year availability of funding will provide additional time in case of unforeseen delays in the procurement process, such as protest bids which could delay major contract awards. Slippage of funds to the next fiscal year would be averted and appropriated funds for these projects would be used in the most cost-effective manner possible.

With a two-year cycle, planning and actual implementation of projects will better coalesce. The long recruitment, hiring and training process for staffing new projects can be undertaken

without fear of disruption by new legislation or the uncertainties inherent in multiple continuing resolutions. The longer planning period will flatten out the impact of long lead times in filling vacancies. Program goals would be more meaningful. Productivity would increase in a more stable, controlled environment. Multi-agency initiatives could also be better planned and coordinated.

Senator Domenici: Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Commissioner von Raab: Nearly all of our request is repeated each year. Normally, only nonrecurring costs, such as one-time equipment purchases or start-up costs for a new program are unique to an appropriation request.

Senator Domenici: What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

Commissioner von Raab: While Customs believes the two-year cycle would be beneficial overall, it is not without certain potential problems. A two-year process can not be as responsive to economic and current events changes as the one-year cycle. The instability of oil prices alone could have a drastic effect on our estimates for the funding needs of the air program (i.e. gasoline and other supplies). Changes in anticipated inflation, rapidly changing technology, and unforeseen or changing needs could create severe funding problems, with the only recourse being a supplemental request. Calculations of funding requirements become less reliable as projected time periods are extended from 12 to 24 months. Somewhat greater flexibility to reprogram funds might alleviate some of these problems.

Some recourse should be readily available in order for an agency to adjust to fluctuations in compensation due to changes in economic assumptions, pay or other legislation, etc. If supplementals are not approved, real funding problems may force understaffing of an agency over long periods of time. In cases such as Customs', where staffing is by far the largest part of our appropriation, providing direct services to the public and industry, inadequate funding will preclude fulfillment of our agency's mission.

GENERAL - FY 1988 BUDGET

Senator Domenici: What enhancements above the President's requested levels for Customs did you initially request of OMB for Fiscal Year 1988?

Commissioner von Raab: The base used by Customs for developing the FY 1988 OMB budget submission was the FY 1987 President's Budget of 12,494 average positions and $693 million. The following chart details the enhancements we requested of OMB for FY 1988 and subsequent OMB action.

Enhancements:	Customs FY 1988 Original Request FTE	Customs FY 1988 Original Request ($000)	OMB Action FY 1987 FTE	OMB Action FY 1987 ($000)	OMB Action FY 1988 FTE	OMB Action FY 1988 ($000)
Salaries and Expenses						
Southwest Border	189	12,500	189	12,500	0	0
Maintain Staffing	967	27,041	215	17,500	0	0
Aviation Staffing	244	18,012	169	12,000	0	0
ACS	0	13,810	0	10,000	0	0
Marine Program	0	1,100	0	1,100	0	0
Operation Tripwire	40	3,666	0	0	0	0
TECS II	0	2,967	0	2,967	0	0
Increased Intelligence	32	1,584	32	1,584	0	0
Child Pornography and Protection	15	2,090	0	0	0	0
Secure Communications	0	5,524	0	5,524	0	0
Optimum Mail Revenue	50	1,500	0	0	0	0
Motor Vehicle Program	0	2,000	0	0	0	0
Radio Maintenance	0	1,901	0	0	0	0
Enhanced Security	10	649	0	0	0	0
Administrative Systems	0	1,000	0	0	0	0
Total Enhancements	1,547	95,344	605	63,175	0	0

USER FEES AT CERTAIN SMALL AIRPORTS

Senator Domenici: Would you please supply for the record the list of designated small airports at which Customs services are currently provided for user fees, along with the amount of fee deposits by airports. Which two airports will be designated for user fee services in Fiscal Year 1988?

Commissioner von Raab: The U.S. Customs Service currently provides the following designated small airports with user fee services.

Designated small airports (as of 3-16-87)	FY 1987 Fee Deposit Amount
Santa Teresa, New Mexico	$55,012
Fort Myers, Florida	50,112
Allentown, Bethlehem, Easton, PA	50,112
Fargo, North Dakota	50,112
Wilmington, Ohio	100,224
Columbus, Ohio	36,657
Fee Deposit Amount	$342,229

The costs for each airport are based on a set flat rate for each inspector per year. The initial start up cost is $73,350 for the first year and $50,112 for each additional year. Costs are prorated to reflect the start up dates at each facility.

Many small airports are showing interest in having Customs provide inspection services. Two likely candidates for FY 1988 are Lexington, Kentucky and Fort Wayne, Indiana.

THE CUSTOMS FORFEITURE FUND

Senator Domenici: Would you please briefly describe the operation of the Customs Forfeiture Fund?

Commissioner von Raab: Seized and forfeited currency and any proceeds beyond the expenses of seizures and forfeiture of merchandise are deposited in this account.

Originally, the fund was used for expenses related to seizures; awards to informants; payments of liens related to seizures; equipping forfeited vessels, vehicles and aircraft; payment of claims of "parties of interest to property disposed"; purchase of evidence; and destruction of drugs. Congress also passed legislation (P.L. 99-570) that authorized new uses of the fund. These uses include 1) investigative costs leading to seizures; 2) cost of equipping any Customs vessel, vehicle, or aircraft for law enforcement purposes -- not just forfeited conveyances; 3) reimbursement to private citizens for expenses incurred in cooperation with Customs investigations and undercover operations; and 4) cost of publicizing the availability of rewards.

Senator Domenici: Why is the current $18 million limitation on the availability of deposits in the fund proposed to be reduced to $10 million in FY 1988?

Commissioner von Raab: The FY 1988 Continuing Resolution provided $8 million in the regular appropriation (Title I) and $10 million for drug interdiction enforcement (Title II). The $10 million requested in FY 1988 actually represents an increase of $2 million over the $8 million provided for the regular appropriation in FY 1987. In addition, the Continuing Resolution expanded the uses of the fund to include investigative costs leading to seizures, however, in the accompanying Conference Report the uses of the $10 million provided for drug interdiction enforcement were limited to the original uses or for capital type enhancements only and could not be used for investigative costs.

Senator Domenici: What is the status of the Forfeiture contract?

Commissioner von Raab: Customs has awarded a contract to the Northrop firm to oversee the processing of seizures and the sale of these seizures and forfeitures.

Senator Domenici: What is the current balance in the Forfeiture Fund?

Commissioner von Raab: Currently, Customs seizures, both merchandise and currency, total about $30 million annually. As of the First Quarter of FY 1987, there was $25 million in the Forfeiture Fund.

ILLEGAL IMPORTATION OF DRUGS

Senator Domenici: Mr. von Raab, As the primary narcotics interdiction agency, would you please give us your assessment of the illegal importation threat?

Commissioner von Raab: The illegal importation of illicit drugs is changing with the changing patterns of demand, supply, and interdiction effectiveness. Generally, cocaine smuggling has increased over 1986, marijuana and hashish have decreased, and heroin has stayed relatively level.

Senator Domenici: Have increased funding and additional assets done anything to alleviate that threat? What more can be done?

Commissioner von Raab: I feel that much of the shifts in types of drugs and patterns of smuggling are in reaction to the enforcement efforts we have been able to generate. The cumbersome marijuana loads have been replaced by easier-to-smuggle cocaine. The enforcement effort in the Caribbean area has caused a shift to the harder-to-police Mexican border. As Mexican border enforcement programs come on line, we may expect to see an overall decline in illegal importation of illicit drugs from Latin American sources.

Senator Domenici: What kind of response are you getting to the 1-800-BE ALERT hotline?

Commissioner von Raab: From September 19, 1986, to March 13, 1987, the hotline in the Southwest has received 526 first time calls and 363 repeat calls. This compares favorably with the established hotline in the Southeast which, so far in fiscal year 1987, has received 347 first time calls and 406 repeat calls.

PROCESSING PROBLEMS - CARGO AND GENERAL TRAFFIC

Senator Domenici: Commissioner von Raab, what congestion problems are currently being experienced along the Southern border? What actions are being taken to remedy the situation?

Commissioner von Raab: Traffic delays at the Southern land border are always a concern. Customs has a heavy responsibility in the interdiction of narcotics. The threat of narcotics smuggling at the Southern border has proliferated, and current trends indicate that cocaine trafficking patterns have extended into Mexico. With the publicity surrounding the inception of Operation Alliance, and the increased enforcement examinations at the Southern border, came complaints of increased traffic delays. Customs is monitoring traffic waits at the border and conducted a study of time delays at the primary vehicle lanes at the ports of entry in the Southwest Region. The study revealed no significant increase in wait times at the border crossings. Commercial interests also felt the pressure of Operation Alliance and the stepping up of intensive inspections. Several ports participated in special operations performing intensive examinations for altered vehicles containing special compartments.

Senator Domenici: Commissioner von Raab, can you tell the committee what "peaking" problems are currently being experienced at major airports? Where are the problems most severe? What is being done to alleviate the situation?

Commissioner von Raab: The "peaking" problem is caused by the simultaneous arrival of aircraft, which overloads the capacity of inspectional facilities. At this time, the problem of peaking is most prevalent at airports on the West Coast (Los Angeles, Honolulu, Seattle) which experience a large number of arrivals from the Far East. The large proportion of noncitizens aboard these flights tends to cause congestion in the

Immigration processing area, which in turn obstructs passengers flow into the Customs area. We have encouraged the airlines to adjust their schedules, but due to competition, most are unwilling to accept this as a solution. We have addressed this issue by identifying the hours during which peaking occurs, and by augmenting our workforce with part-time inspectors. The use of part-time employees allows Customs to increase the number of inspectors available during a limited time frame.

Senator Domenici: Commissioner von Raab, what is the average waiting time for passengers at major airports?

Commissioner von Raab: The average passenger processing time at major airports is subject to a variety of constraints such as terminal configuration, baggage delivery system capabilities, and peaking (multiple arrivals within a limited timeframe). In general, Customs has determined that the average passenger waits for 45 minutes or less at major airports to be processed by the Federal Inspection Services. This time includes INS and Customs processing, baggage pick-up, and the time spent walking through the facility.

Customs has adopted several procedures to reduce waiting time and facilitate the movement of passengers in the Customs area. These measures include use of roving inspectors who process passengers as they wait for their baggage, implementation of red/green self-selection programs and citizens bypass to speed the processing of U.S. citizens and relieve congestion in the INS area.

Senator Domenici: Commissioner von Raab, what is the average waiting time for processing cargo?

Commissioner von Raab: With the advent of automated cargo release through the cargo selectivity module within the Automated Commercial System (ACS), cargo processing times have been reduced. Currently, in locations processing on ACS, and dependent upon cargo workload, the average waiting time for processing cargo, from entry presentation to cargo release is five hours. These times will be higher or lower dependent upon port workload and equipment availability. At non-automated ports the average waiting times are two business days or more.

Questions Submitted by Senator Alfonse M. D'Amato

THE AIR INTERDICTION PROGRAM

Senator D'Amato: At page 56 of the budget justification, there is a chart that seems to assume $32.099 million of Air Program money will not be spent this year. You refer to this matter at page 2 of your statement. Isn't this the same $32 million, which the members of this Subcommittee have repeatedly said will be spent this year?

Commissioner von Raab: Yes.

Senator D'Amato: If we do not approve the delay, can you spend or obligate that amount productively this year?

Commissioner von Raab: Yes.

Senator D'Amato: If the $32 million is spent this year, will the $86.2 million requested for FY 1988 be sufficient for the Air Program's needs? In other words, what was your original request to OMB for the Air Program for 1988?

Commissioner von Raab: In my opinion, no. The original request to OMB was $111,120,000 which was based on the FY 1987 President's budget of $54,700,000.

Senator D'Amato: At page 62 of the budget justification, there is a reference to $95,063,000 in non-recurring costs and no-year resources. Can you give us a breakdown and explanation of how Customs arrived at these figures?

Commissioner von Raab: Yes. The breakdown is as follows:

U.S. Bahamas Task Force (3 Aircraft)	$ 9,000,000
U.S. Bahamas Task Force Communications	1,000,000
C3I Centers	39,735,000
P-3 Modification for 360° Radar	19,131,000
Purchase 2 Interceptor Aircraft	10,000,000
Modify C12/King Air Aircraft	14,265,000
ILS/Inventory System	700,000
Los Alamos Study	235,000
Arizona Aerostat	997,000
TOTAL	**$95,063,000**

Senator D'Amato: Assuming no delay in obligating this $32 million, can you provide us with a schedule for opening the Command and Control Centers, modifying the C-12 aircraft with radar, and funding the Operations and Maintenance of the new E-2C's?

Commissioner von Raab: We plan to start construction of the C3I Center at March AFB by early April and to start at Richmond Heights by early May. The National Command Center could commence one month later. The National Drug Enforcement Policy Board is reviewing the plans for this center. We expect to begin installation of C3I equipment in late July, which will give us an Initial Operating Capability (IOC) by October 1987.

Six C-12 aircraft are in our possession. They are having special radio equipment installed and are scheduled to be painted. Sensor equipment specification and interface design have been initiated. We expect to be ready for sensor equipment installation in October 1987.

We have allocated $10M for the Operation and Maintenance of the E-2C aircraft. Portions of these funds have been expended on pilot training and on facility start up costs at the Naval Air Station in Corpus Christi Texas. The E-2C will operate out of Corpus Christi and is expected to arrive there in mid-July, 1987.

Senator D'Amato: In a December 5, 1986 letter to Assistant Secretary John Roger, OMB makes extensive reference to the Drug Policy Board's involvement in the Air Program. Have there been any other communications from OMB that have affected your ability to obligate funds for the Air Program?

Commissioner von Raab: Yes, I am submitting copies of these documents for the record.

Sheet ..... of .....
Fiscal year 1987

APPORTIONMENT AND REAPPORTIONMENT SCHEDULE

Agency: Department of the Treasury Bureau: U. S. Customs Service	Appropriation or Fund Title and Symbol: Operations & Maintenance, Air Interdiction Program 2070604		
Description	Amount on Latest S.F. 132	Agency Request	Action by OMB
BUDGETARY RESOURCES			
1. Budget authority:			
A. Appropriations realized PL 99-591		77,819,000	
B. Appropriations anticipated (indefinite)			
C. Other new authority ( )			
D. Net transfers (+ or −)			
2. Unobligated balance:			
A. Brought forward October 1			
B. Net transfers (+ or −)			
3. Reimbursements and other income:			
A. Earned			
B. Change in unfilled customers' orders (+ or −)			
C. Anticipated for rest of year			
4. Recoveries of prior year obligations:			
A. Actual			
B. Anticipated for rest of year			
5. Portion not available pursuant to P.L. ____ (−)			
6. Restorations (+) and writeoffs (−)			
7. Total Budgetary Resources		77,819,000	77,819,000
APPLICATION OF BUDGETARY RESOURCES			
8. Apportioned: (Memorandum: Obligations incurred)			
Category A:			
(1) First quarter		42,858,000	40,358,000
(2) Second quarter		11,658,000	11,658,000
(3) Third quarter		11,657,000	11,657,000
(4) Fourth quarter		11,646,000	11,646,000
Category B:			
(1) San Diego Hangar Facility 1/			2,500,000
(2)			
(3)			
(4)			
9. Withheld pending rescission			
10. Deferred			
11. Unapportioned balance of revolving fund			
12. Total Budgetary Resources		77,819,000	77,819,000

Submitted: [signature] (Authorized officer) OCT 24 1986 (Date)

Apportioned: [signature] (Date)

1/ See Attachment.

U. S. Customs Service
Operations & Maintenance, Air Interdiction Program
2070604

To apportion FY 1987 appropriations as set forth in the Continuing Resolution (PL 99-500).

First quarter allocation allows the letting of contracts for large procurement items and contractual services.

1/ Funds may be obligated for the construction of the San Diego hangar facility only after a detailed plan has been submitted to the Department of the Treasury.

Fiscal year 1987

APPORTIONMENT AND REAPPORTIONMENT SCHEDULE

Agency: Department of the Treasury Bureau: U. S. Customs Service	Appropriation or Fund Title and Symbol: Operations & Maintenance, Air Interdiction Program 20X0604 (no year)		
Description	Amount on Latest S.F. 132	Agency Request	Action by OMB
BUDGETARY RESOURCES			
1. Budget authority:			
A. Appropriations realized PL 99-591		93,131,000	
B. Appropriations anticipated (indefinite)			
C. Other new authority ( )			
D. Net transfers (+ or −)			
2. Unobligated balance:			
A. Brought forward October 1 Estimated	5,611,000	2,722,972	
B. Net transfers (+ or −)			
3. Reimbursements and other income:			
A. Earned			
B. Change in unfilled customers' orders (+ or −)			
C. Anticipated for rest of year			
4. Recoveries of prior year obligations:			
A. Actual			
B. Anticipated for rest of year			
5. Portion not available pursuant to P.L. (−)			
6. Restorations (+) and writeoffs (−)			
7. Total Budgetary Resources	5,611,000	95,853,972	95,853,972
APPLICATION OF BUDGETARY RESOURCES			
8. Apportioned: (Memorandum: Obligations incurred)			
Category A:			
(1) First quarter		21,842,972	2,822,972
(2) Second quarter		47,940,000	66,960,000
(3) Third quarter		640,000	640,000
(4) Fourth quarter		9,440,000	9,440,000
Category B:			
(1) Est. carryover for A/C mod.		15,991,000	15,991,000
(2)			
(3)			
(4)			
9. Withheld pending rescission			
10. Deferred			
11. Unapportioned balance of revolving fund			
12. Total Budgetary Resources	5,611,000	95,853,972	95,853,972

Submitted: Wm. Ott (Authorized officer) OCT 24 1986 (Date) Apportioned: [illegible] (Date)

[illegible] Management & Budget

U. S. Customs Service
Operations & Maintenance, AIr Interdiction Program
20X0604 (no year)

To apportion no-year Operations and Maintenance appropriation approved in the drug enhancement portion of the FY 1987 Continuing Resolution (PL 99-500).

Assumptions for quarterly allocations are as follows:

FIRST QUARTER: The bulk of the first quarter contains funds for modification of P-3 aircraft for 360 degree radar.

SECOND QUARTER: Requested allocation will allow obligations for C3I centers and contracting for the purchase of 2 interceptor aircraft.

THIRD QUARTER: Contains start-up costs for Bahamas Task Force, continuing C3I development, and preliminary modification of C12/King Air A/C.

FOURTH QUARTER: Contains the aircraft for the Bahamas Task Force and continuing operations for other authorized activities.

CATEGORY B: It is estimated that the bulk of the aircraft modification and some of the C3I project will occur in FY 1988.

Senator D'Amato: At page 8 of your statement, you say: "Ultimately, the overall effectiveness of the full Air Program is dependent on the Command, Communication, Control and Intelligence (C3I) system and the detection network of airborne and ground based radars." Please give us a current status report with respect to the availability of funding and the schedule for opening these C3I Centers.

Commissioner von Raab: Funding allocation during FY-87 for the development of the C3I facilities is $41,600,000. Building construction could start in early April, 1987, and Customs could have Initial Operating Capability (IOC) by late October, 1987.

EXPECTED LEVELS IF RESCISSION IS NOT APPROVED

Senator D'Amato: Commissioner, in the second paragraph of your statement, you say that the Salaries and Expenses FY 1988 appropriation request represents an increase of $11.9 million from the revised level proposed for 1987.

What happens to that increase if we do not approve the $38,945 million rescission this year? Doesn't the budget request for 1988 actually represent a decrease from the level approved for 1987 in the Continuing Resolution?

Commissioner von Raab: Yes, the FY 1988 budget request for Salaries and Expenses represents a decrease of $27 million from the FY 1987 funding level provided in the Continuing Resolution.

Senator D'Amato: Assuming Congress does <u>not</u> approve the proposed rescission, and the 1,485 positions are <u>not</u> eliminated, how many personnel will you add this year?

Commissioner von Raab: As directed in the FY 1987 Continuing Resolution (P.L. 99-591), Customs plans to reach a floor of 14,891 full-time personnel.

Senator D'Amato: How many Custom personnel have you added since the start of the fiscal year?

Commissioner von Raab: As of March 9, 1987, Customs had gained 788 full-time personnel.

Senator D'Amato: How many do you expect to be "on-board" by the end of the fiscal year?

Commissioner von Raab: As stated previously, we project 14,891 full-time personnel.

Senator D'Amato: What initiatives in the areas of drug law enforcement and commercial operations will it be possible to undertake with these additional personnel?

Commissioner von Raab: Customs FY 1987 initiatives include Southwest and Pacific secondary inspection support, additional agent, marine and air personnel in the Southern regions, additional intelligence support, continued Blue Lightning staffing, development of the Automated Commercial System, and increased commercial operations staffing to collect user fees and support the Drug Interdiction Act.

ADDITIONAL PERSONNEL FOR NEW YORK

Senator D'Amato: Do you have any contingency plans for adding personnel to New York if you are able to save the 1,485 positions threatened by the proposed FY 1987 rescission?

Commissioner von Raab: The 1,485 positions included in the proposed rescission were to have been eliminated by means of attrition. If the rescission is not approved, positions will simply continue to be filled when vacancies arise. If workload in the New York region increases relative to other regions, an additional allocation of positions to New York may be considered.

PROPOSED REDUCTION OF 513 POSITIONS IN FY 1988

Senator D'Amato: On page 3, the budget justification indicated that one of the methods of achieving the proposed appropriation level of FY 1988 is "a selective hiring policy which will reduce staffing by 513 average positions and $12.8 million."

This statement implies that the proposal to cut 513 positions is simply the result of budget contraints imposed by OMB.

Can you tell us what staffing levels you would request were it not for these budget constraints?

Commissioner von Raab: Improved efficiencies due to automation, reduced paperwork, and improved processing procedures have reduced the need for a large labor intensive workforce. The requested FY 1988 staffing level of 13,039 average positions will enable Customs to maintain full service at major ports and for priority programs.

EFFECT OF PROPOSED BUDGET CUTS

Senator D'amato: At page 18 of the budget justification, we are told: "Future efforts will focus on more specific targeting of larger, more significant seizures. This will be accomplished through the use of Operational Analyses Teams and threat assessments, pre-arrival manifest information, more thorough container and aircraft searches, added air vessel carrier agreements, and international cooperation."

How could you possibly accomplish all of these things with a reduction of 1,996 positions below the levels funded in the FY 1987 Continuing Resolution?

Commissioner von Raab: Although Customs is proposing a significant staffing reduction, innovations implemented in recent years, specifically automation, reduced paperwork, and improved processing procedures, will, we believe, mitigate the impact of the reduction. Improved efficiency due to automation has reduced the need for large numbers of staff. In addition, this impact will be mitigated by the further improvements to be implemented by FY 1988 in the Automated Commercial Systems (ACS). A significant program for extending automated processing is the Automated Broker Interface (ABI), which provides for an integrated computer interchange for processing entries. It eliminates redundant keying of data, normal manual preparation of import documentation, and the need for extensive back-up documentation. Other improvements for reducing staffing requirements are:

- improved selection methods for cargo and passengers inspections,
- extension of centralized inspectional examinations, and
- implementation of an audit inspection systems.

With regard to enforcement, Customs will maintain its current enhanced resource levels for its priority drug and other law enforcement programs. Customs will maintain Operation Alliance, its air and marine programs, and other enforcement efforts along the Southern Border.

The net impact of these reductions will be mitigated by the above described efforts. We believe that full service can be maintained at major ports and for priority programs.

INTERNATIONAL COOPERATION

Senator D'Amato: What were your major successes and disappointment last year in Customs efforts to obtain international cooperation?

Commissioner von Raab: Customs had several major accomplishments in international cooperation, especially in the area of narcotics enforcement.

Customs has continued cooperative efforts with the Bahamas by placing tethered aerostats in that country to provide radar

detection platforms to provide data and intercept aircraft using the Caribbean to transship drugs to the United States. Another operation in Merida, Mexico utilized radar installations to identify and track suspect aircraft enroute to the United States.

U.S. Customs has also been successful in negotiating agreements with several international carriers. These carriers are cooperating with U.S. Customs to increase security to ensure that their conveyances are not used to smuggle narcotics.

Last year, Customs signed a Bilateral Enforcement Agreement with Korea and initialed agreements with Spain, Sweden and Cyprus. Authority to negotiate an agreement with the United Kingdom was granted. These agreements provide a formal basis for cooperation in enforcement matters and are especially useful in controlling diversions of critical technology.

U.S. Customs continues to cooperate with the Department of State to provide narcotics and anti-terrorism training to foreign countries. We also worked with the Agency for International Development to provide technical assistance to several developing countries. Finally, U.S. Customs and Canada Customs and Excise have agreed to build two joint border facilities.

Customs had disappointments in two areas. There continue to be problems that hamper cooperative efforts with Mexico to control narcotics trafficking, and internal conspiracies involving employees of some air carriers continue to be effective in smuggling illegal narcotics to the United States by that method.

THE CUSTOMS FORFEITURE FUND

Senator D'Amato: The budget cuts this Fund by 44 percent, from $18 million this year to $10 million in 1988. At page 68 of the budget justification we are told: "This reflects the nonrecurring costs of the FY 1987 Drug Interdiction Enforcement Act (P.L. 99-570)."

Please explain what these "nonrecurring" costs are? What is "nonrecurring" about investigative costs leading to seizures, or the costs of equipping Customs vehicles and aircraft for law enforcement purposes?

Commissioner von Raab: The FY 1988 Continuing Resolution provided $8 million in the regular appropriation (Title I) and $10 million for drug interdiction enforcement (Title II). The $10 million requested in FY 1988 actually represents an increase of $2 million over the $8 million provided for the regular appropriation in FY 1987. In addition, the Continuing Resolution expanded the uses of the fund to include investigative costs leading to seizures, however, in the accompanying Conference Report, the uses of the $10 million provided for drug interdiction enforcement were limited to the original uses or for capital type enhancements only and could not be used for investigative costs. It was therefore assumed that this $10 million was nonrecurring in FY 1988.

NEW YORK REGION

Senator D'Amato: Mr. von Raab, last August, you provided me with a threat analysis for the New York Region. It is filled with information that would indicate New York should be a prime candidate for additional personnel and resources, and for new law

enforcement initiatives. I will honor your request that this information not be made public, but I would ask that you answer the following questions with this threat analysis uppermost in your mind.

Mr. von Raab, last year, what percentage of heroin and cocaine seizures by Customs were in New York?

Commissioner von Raab: In Fiscal Year 1986, 42 percent of all Customs heroin seizures (64 percent by weight) were seized in New York. Approximately 10 percent of all U.S. cocaine seizures (10 percent by weight) were in New York. All seizures were made from commercial passengers and cargo -- all heroin eitner at Newark or JFK airports and over 99% of the cocaine at Newark, JFK, or the New York seaport.

NEW YORK AIR SMUGGLING THREAT

Senator D'Amato: The threat analysis also indicated that the increase in enforcement in the southeast is resulting in an increase in smuggling activity in the New York area. How much of this smuggling is being conducted by air?

Commissioner von Raab: The Customs Service has established a comprehensive airborne target detection system in the southern Caribbean. This network is operated extensively during the time that peak airborne smuggling activity occurs. During the past year, none of the targets detected have been destined for the New York area. We conclude from this data, that no general aviation aircraft smuggling is taking place in New York.

RESOURCE LEVELS FOR NEW YORK

Senator D'Amato: Do you have any plans to increase or decrease the number of personnel and the level of resources in the New York Region?

Commissioner von Raab: As of March 1987, Customs has increased the FY 1987 level of resources provided to the New York Region by $16 million and 40 average positions over the FY 1986 allocation.

Senator D'Amato: At what funding and personnel levels nationally does it become possible to add personnel to New York?

Commissioner von Raab: We allocate additional personnel based on workload demands. With the increases already provided to New York this year, we believe an adequate staffing level in the New York Region is being maintained.

Senator D'Amato: What contingency plans have you made to increase or decrease the numbers of inspectors, agents and other personnel assigned to the New York Region?

Commissioner von Raab: At present, we are not contemplating changing the number of inspectors, agents or other personnel assigned to the New York Region.

Senator D'Amato: What effect do the proposed rescission in 1987, and the proposed budget of $899,786,000 for FY 1988 have on your plans for the New York Region?

Commissioner von Raab: If the proposed rescission in FY 1987 were approved certain positions would be eliminated through attrition; staffing levels would not be increased in FY 1988.

Senator D'Amato: As you know, last year's drug bill made money laundering a crime, gave the Treasury Department an administrative subpoena power, authorized criminal forfeitures as a penalty for money laundering, and in several ways strengthened the Customs Service's hand in the area of financial law enforcement

The discussion of the Financial Law Enforcement program at page 37 of the budget justification makes no mention of any major initiatives to take advantage of these important changes in the law.

What will be the impact on your ability to enforce these changes in the law if we approve the budget request for 1988? Does the budget request for 1988 permit you to undertake any major new initiatives against criminal money laundering?

Commissioner von Raab: We have received substantial increases in enforcement manpower levels and are infusing high concentrations of enforcement and inspectional personnel into high risk areas. Supported by major improvements in communications systems and intelligence gathering, we are making quantum leaps forward against drug trafficking and money laundering in the southeast and southern border areas. As a result, our seizure and arrest statistics for FY 86 revealed large percentage increases. The new enforcement tools acquired through passage of the Anti-Drug Abuse Act of 1986 will only serve to enhance our productivity and effectiveness in the war on drugs and money laundering.

Operation Buckstop, which resulted in 82 seizures, 38 felony arrests, and in excess of $38 million seized, will be expanded under the 1988 budget. Additional cities will become the targets of concentrated currency enforcement activity, and more pressure will be exerted on money couriers who have moved from the south Florida area to establish themselves in less restrictive locations.

Operation Alliance is presently exerting that pressure on drug smuggling and money laundering activity on the Mexican border. Increasing levels of enforcement activity scheduled for 1988 will place a strangle hold on drug related activity in that area.

Senator D'Amato: What specific initiatives would you recommend if the proposed budget cuts are not approved?

Commissioner von Raab: We will maintain our money laundering priority programs, and continue to expand enforcement programs in the areas of money laundering and drug smuggling from staffing increases and the reassignment of existing personnel.

Operation Alliance will receive additional support on the Mexican border area. Operation Buckstop will be expanded to target other areas which are experiencing increased money laundering activity. The new Money Laundering Control Act of 1986 will be fully utilized to increase manpower efficiencies in money laundering investigations.

Complex conspiracy investigations will be pursued with concentration placed on asset forfeitures. Increased emphasis will be placed on expanding existing efforts to identify hidden assets which may now be seized under the broader scope of the Money Laundering Control act of 1986.

CUSTOMS USERS FEES

Senator D'Amato: The Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) established a new Customs User Fee Account. At page 390 of the Conference Report, I note the following statement: "All customs user fees....are to be deposited in a dedicated account in the General Fund of the Treasury, to be used exclusively to reimburse the Customs Service appropriation."

Given this Conference Report language, why was there no request for an FY 1987 appropriation from the User Fee Account?

Commissioner von Raab: At the time the FY 1988 Budget request was prepared there was considerable uncertainty on the amount of funds the fees would generate. The primary problem impacting any projection of fee collections was the exemption granted to Schedule 8 imports, which include merchandise produced domestically, then exported and then re-imported. Under the Omnibus Budget Reconciliation Act of 1986, these imports or any import which includes any of these American made goods, are exempt from the fee. As an example, a foreign made automobile could be made exempt from the fee by incorporating some American made parts.

Before the enactment of the fees, Schedule 8 imports were estimated to be about 10 percent of all imports. However, with the imposition of a fee, there was a potential for significant conversion from regular imports, for which a fee is payable, to Schedule 8 imports, exempted from the fee. It has been estimated that this conversion could potentially reduce fee totals by almost $200 million. Therefore, it was decided to request an appropriation for FY 1988 rather than FY 1987.

Senator D'Amato: In addition to the $417 million expected for 1987, OMB lists $387 million in the Receipts Account for 1988. This means that OMB expects $804 million to be received through 1988. OMB proposes appropriations of only $499 million for 1988.

Have you been told what OMB intends for the other $305 million?

Commissioner von Raab: The estimated $305 million surplus in the Receipts Account for FY 1988 will be used in FY 1989 to fund Customs Commercial Operations Activity. The FY 1989 fee rate will be adjusted by the Secretary of the Treasury to reflect the availability of these funds.

PAY RAISE AND FERS

Senator D'Amato: On pages 10 and 48 of your budget justification, you note, "$21,524,000 is being used in FY 1987 to absorb the increased costs of the pay raise and the Federal Employees Retirement System (FERS)."

How many Customs positions did you assume when you made that cost estimate and what would be the cost if we do not agree to the proposed rescission for 1987?

Commissioner von Raab: The $21,524,000 estimate is based on 13,552 average positions. The costs associated with the pay raise and the Federal Employees Retirement Fund at the appropriated level of 15,037 average positions are $23,038,000.

GAO REPORT

Senator D'Amato: At my request, GAO reviewed Customs cargo inspection process and its enforcement of U.S. import laws. In September 1986, GAO issued a report entitled: Cargo Imports-Customs Needs to Better Assure Compliance with Trade Laws and Regulations.

At page 18, the Report states that inspectors:

1) USUALLY EXAMINED 1 OR 2 PACKAGES SELECTED FROM THE MOST ACCESSIBLE LOCATIONS;

2) OFTEN ALLOWED NON-CUSTOMS EMPLOYEES TO SELECT MERCHANDISE TO BE EXAMINED; AND

3) USUALLY DID NOT VERIFY THAT THE QUANTITY IN THE SHIPMENT WAS EQUAL TO THE AMOUNT DECLARED BY THE IMPORTER.

How is a request for reducing the inspector workforce consistent with an intensified effort to address these problems?

Commissioner von Raab: Customs has, over the past few years, been developing policies that enable us to "trim the fat" from our resources and deploy our staff more efficiently. We have introduced the selectivity concept to cargo examinations and saved hundreds of staff hours. We developed the line release system to accelerate the release of repetitive low-risk shipments and centralized examination policy to perform examinations at fewer, better-equipped sites. Our entry simplification program ensures that clerical work is done by clerical, rather than inspectional personnel. These changes have allowed

us to deploy our staff more efficiently and perform our job more effectively.

Senator D'Amato: GAO recommends (at pages 4 and 39) the development of "specific policy and procedures for inspectors to use in determining the intensity of cargo examinations."

What steps have you taken to implement this recommendation?

Commissioner von Raab: We have issued a Customs Directive to establish a uniform procedure for cargo examinations. The directive defines four different levels of examination and de-emphasizes routine tail-gate exams in favor of quality examinations.

The Customs Service is also developing training programs in cargo examination techniques.

Finally, we have implemented a centralized examination policy. Customs will be able to deploy staff to fewer, better-equipped sites to perform quality examinations.

Senator D'Amato: At page 12 of its Report, GAO indicates that "Customs processed 6.8 million shipments during fiscal year 1985 which was a 56-percent increase over 1979. Over the same period of time, the number of inspectors' positions has remained constant."

At page 22 of the budget justification, you indicate that the volume of U.S. imports is expected to increase again to 7.3 million entries in 1986 and 7.5 million in 1987.

How confident are you that the increasing demands on our inspectors can be met without increasing their numbers?

Commissioner von Raab: I am very confident that the new policies and procedures that I have described will enable us to do more with the same or fewer resources.

Senator D'Amato: The GAO Report indicates, at page 29, that the manner in which current high-risk cargo examinations are performed does not provide reliable information.

For example: At page 29, GAO says it observed 177 examinations of first-time importers with an average size shipment of 318 packages. Inspectors examined either no packages or only 1 package in 64% of the examinations. Yet, Customs uses these results to determine the need to examine these importers' future shipments.

What steps is Customs taking to improve the reliability and thoroughness of these examinations? How can you ensure these steps can be taken without more inspectors?

Commissioner von Raab: Customs has just completed implementing a major new enhancement to our ACS Cargo Selectivity, called Tier II. Tier II's new selectivity criteria and history files will vastly improve our data base for targeting high-risk

shipments. We have assigned responsibility for the development and maintenance of good selectivity criteria to Operational Analysis Staffs. These steps will ensure the validity and integrity of our criteria to select shipments for examination. Our new policies and procedures will ensure that the cargo selected will be examined to the degree that is appropriate, as outlined in our examination policy directive, rather than receiving cursory or no examinations.

Senator D'Amato: GAO goes on to note that, once a first-time importer's shipment is physically examined, future shipments by the same importer are selected for physical examination. In 22 out of the 33 random examinations GAO observed, the packages selected for examination were at the rear door of a container or at the top of a stack of packages!

What steps are you taking to ensure a more thorough examination process? How can you take these steps with fewer inspectors?

Commissioner von Raab: We are aggressively pursuing new procedures that have resulted in substantial savings in staffing and will enable us to process our increasing workload with a much reduced staff. Some of these new procedures are: Tier II Cargo Selectivity, Entry Simplification, Centralized Examination and Line Release. We are able to deploy our inspectors to do inspectional rather than clerical work. We are giving our inspectors the data necessary to make informed decisions to examine cargo and we are ensuring that inspectors have the resources to do quality examinations.

Question Submitted by Senator Robert W. Kasten, Jr.

ADDITIONAL PERSONNEL FOR MILWAUKEE

Senator Kasten: In the Treasury-Postal Appropriations Bill for Fiscal Year 1986, language was specifically included to prohibit the closing, consolidation, transfer or merger of the Milwaukee office and to require the assignment of at least 4 full-time personnel to that office. Both the authorization and appropriation have been provided for in that bill. Why haven't these positions been filled?

Commissioner von Raab: In August 1986, four additional positions were allocated to Milwaukee -- one inspector, one import specialist and two clerical positions. We believe that workload trends in the Milwaukee District currently indicate an appropriate level of staffing.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand at recess until 9:30 a.m. tomorrow morning in this same room.

We will receive testimony from the members of the Treasury Department agencies, the departmental office, financial management, the Bureau of Public Debt, the U.S. Mint, and the Internal Revenue Service.

Thank you, gentlemen.

[Whereupon, at 3:51 p.m., Thursday, March 5, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, March 6.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

FRIDAY, MARCH 6, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present. Senator DeConcini, Domenici, and D'Amato.

DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

BUREAU OF THE PUBLIC DEBT

U.S. SAVINGS BONDS DIVISION

U.S. MINT

STATEMENTS OF
JOHN F.W. ROGERS, ASSISTANT SECRETARY OF THE TREASURY, MANAGEMENT
WILLIAM E. DOUGLAS, COMMISSIONER, FINANCIAL MANAGEMENT SERVICE
RICHARD L. GREGG, COMMISSIONER, BUREAU OF THE PUBLIC DEBT
JERROLD B. SPEERS, EXECUTIVE DIRECTOR, U.S. SAVINGS BONDS DIVISION
DONNA POPE, DIRECTOR, U.S. MINT

ACCOMPANIED BY:
GERALD MURPHY, FISCAL ASSISTANT SECRETARY
JILL E. KENT, DEPUTY ASSISTANT SECRETARY, FINANCE AND MANAGEMENT

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order. This morning the Subcommittee on Treasury, Postal Service, and General Government is continuing its fiscal year 1988 appropriation hearing by receiving testimony from a number of important Treasury Department agencies. We are pleased to have with us the Honorable John Rogers,

Assistant Secretary of the Treasury for Management, who will oversee the testimony for the Treasury Department today.

Mr. Rogers will discuss the Departmental Offices at Treasury, and then turn over the microphone to the witnesses representing the Financial Management Service; the Bureau of Public Debt; the mint; and last but not least, W–4, rather IRS.

Mr. Rogers, I would suggest that we proceed as follows. If it is satisfactory with you, I will first yield to my ranking member and friend, Pete Domenici, for any opening statement that he may have.

Senator DOMENICI. Mr. Chairman, I have no opening statement at this time. I do have some remarks with reference to IRS when that comes, and some questions, but I just welcome the distinguished guests and hope we can proceed with dispatch. Thank you, Mr. Chairman.

Senator DECONCINI. Senator D'Amato.

PREPARED STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Mr. Chairman, I would ask that my comments be entered into the record.

Senator DECONCINI. Without objection.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE D'AMATO

Mr. Chairman, I am pleased to be here today to hear from several witnesses from the Treasury Department.

I have a particular interest in hearing from the witness from the U.S. Mint, Donna Pope. I have a few questions for the record regarding reports that the U.S. Mint may move all or some of the production of the gold bullion coin program from the West Point Depository to the Philadelphia Mint. I am extremely concerned about this possibility. The quality of the work at West Point is excellent—so good, in fact, that the Bicentennial of the Constitution Coins Act mandates that the gold bicentennial coins be minted there.

I believe that high-quality work should be rewarded. I do not believe the U.S. Mint should turn around and transfer coinage operations to Philadelphia.

Mr. Chairman, I have some questions on this issue that I would like to have answered for the record. I also would like to mention that I am prepared to offer legislation, along with several colleagues, if necessary, to block this wrong-minded move.

Also, I know we all are particularly interested in hearing from the Internal Revenue Service this morning on several issues.

For example, I notice that the testimony from IRS mentions the recent problems with the new W–4 forms. I know that we will all be watching IRS this year as they make plans to enforce the new tax laws.

As my colleagues know, I have been particularly interested in seeing the Federal Government improve its collection efforts, and, as the sponsor of the Federal Debt Recovery Act, I read with interest the portion of the IRS statement which deals with improving collections. I look forward to hearing specifically how advanced automation can assist in this effort.

In the past, I have expressed my interest in seeing a Federal tax amnesty program similar to the highly successful one in New York State. I believe we should continue to look for any possible way to increase revenues without raising rates for hard-working, middle-class citizens.

I know that we in the Congress need to be willing to commit the necessary resources to the IRS, and I am here this morning to see how we might assist their efforts.

Thank you, Mr. Chairman.

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. Thank you very much, Senator D'Amato. Mr. Rogers, you may proceed. If you would summarize your statement, the full text of it will be printed in the record. Please introduce the people you have with you today.

Mr. ROGERS. Thank you, Mr. Chairman. I will introduce the Commissioners and Directors who are with me today. To my far left is Mr. William E. Douglas, the Commissioner of Financial Management Service; Richard Gregg, the Commissioner for the Bureau of Public Debt; Gerald Murphy, who is the Fiscal Assistant Secretary of the Department; on my right is Jill Kent, whom I am sure is familiar to most of you since she has been at most of the hearings, and is my Deputy for Finance; and then Jerrold Speers, who is the Director of the U.S. Savings Bonds Division, which is a part of the Bureau of Public Debt, and Donna Pope, Director of the U.S. Mint.

PREPARED STATEMENT

In the interest of proceeding, I recommend that I just submit my statement for the record and open up to questions directly on Departmental Offices from you, sir. I know that some of the other Commissioners wish to make their statements and have some presentations, so as we proceed they can, but in the interest of time I would just recommend my statement on Department Offices be submitted for the record.

Senator DECONCINI. Very good. Without objection we will do that.

[The statement follows:]

STATEMENT OF JOHN F.W. ROGERS

Mr. Chairman and members of the committee, I am pleased to appear before you today to discuss the fiscal year 1988 budget request for the Treasury's departmental offices. This request supports the Secretary of the Treasury in his dual role as the chief financial officer of the Federal Government and the chief operating officer of one of the Nation's major departments.

The Departmental Offices appropriation funds' essential functions include:

One, policy formulation and management of U.S. domestic and international economic, financial, and tax policies;

Two, management of the fiscal operations of the U.S. Government and the servicing of the public debt; and

Three, oversight of Treasury's bureaus.

The fiscal year 1988 budget request reflects our commitment to fulfill these important responsibilities within the limitations of current fiscal constraints.

We are again requesting a merger of the salaries and expenses and international affairs appropriations in fiscal year 1988. Departmental offices is a single, integrated organization responsible for providing the Secretary with policy analysis and management oversight. By reflecting the true nature of departmental operations, the merger will provide greater management flexibility and eliminate duplicate standard reports for accounting, payroll, personnel, and procurement. Even with a merged appropriation, we will continue to provide Congress with the same level of detail as is currently provided.

The Department's fiscal year 1988 budget request is for $81 million and 1,210 full-time equivalent positions. This is a current services budget with increases for uncon-

trollable costs. There are no new program initiatives. The request also is a decrease of $1.9 million from the fiscal year 1987 proposed authorized level. This net decrease includes:

One, a reduction of $5.1 million for nonrecurring costs associated with renovation of the Treasury Annex and repairs and improvements projects (part of a supplemental request submitted for fiscal year 1987);

Two, an increase of $3.5 million, of which $2.4 million is for retirement costs, $0.7 million is for annualization of the pay raise, and $0.4 million for within-grade increases; and

Three, a reduction of nine full-time equivalent positions and $300,000.

Today I am also requesting a supplemental fiscal year 1987 appropriation of $7,866,000 and 10 full-time equivalent positions. Of this amount, $5 million are one-time, nonrecurring funds for the renovation of the Treasury Annex building; this building has been in constant use without major rehabilitation during its 68 years of service. Many of the repairs would ensure the continued usefulness of the annex as an office building.

I am also requesting $2,216,000 to cover costs of the fiscal year 1987 Pay Act ($1,353,000) and the new Federal Employees Retirement System ($863,000).

This supplemental request also includes $650,000 and 10 full-time equivalent positions to support establishment of an Office of Depreciation Analysis within the Office of Tax Policy. Such an office is mandated by the Tax Reform Act of 1986 to undertake studies of depreciation that would then be used by the Department to evaluate the classification of an asset for purposes of depreciation. Because the new office was not required by law when the fiscal year 1987 appropriation request was submitted to Congress, no funds are available for it.

Mr. Chairman, this budget request supports our policy objectives and will enable us to meet our responsibilities. Thank you for your consideration of our request. I will be happy to answer your questions.

MERGER OF APPROPRIATIONS

Senator DECONCINI. Thank you, Mr. Rogers. As you know, for the past several years there has been disagreement between Treasury and the Congress over the need for two separate accounts for the Secretary of the Treasury activities. Currently you have two accounts, one for salaries and expenses, and one for international affairs.

In fiscal year 1988, you are once again asking to consolidate these two accounts into one account called Departmental Offices, salaries and expenses. What are your primary objectives to breaking out the international affairs activities into a separate appropriation account?

Mr. ROGERS. Well, I would say, Mr. Chairman, the fundamental objection to continuing the separation is simply an operational one in terms of the difficulties in administering two appropriations. The headquarters operations of Treasury function as a single integrated organization. The split appropriation structure is simply a matter of historical accident. At the earlier stages of the process back in the 1970's, the international affairs appropriation was maintained as part of the exchange stabilization fund, and then when it came on budget, it was kept as a separate appropriation.

Administratively it is difficult to maintain two complete sets of accounting records and budget data. This is simply a matter of streamlining. I have never understood the House's objection on this, and I have had a number of discussions with them.

This body has always agreed with the merger. There is no question, that we would provide the Congress with the level of detail that they would want for the appropriation.

Senator DECONCINI. Have you suggested in these hearings—I cannot remember—what kind of detail you could present? I think it makes sense, the little bit that I can follow it—what we might be able to do, if we go along with it on our side, to convince the House. Is there anything you can supply for the record?

Mr. ROGERS. I would be happy to supply it. My discussions with the House is that we would provide the same level of detail that we now provide in terms of what is going on in that appropriation. We would be more than happy to provide that on a continuous basis. We have classified the activity in this proposal as a subactivity, international affairs.

Senator DECONCINI. I am told by Mr. Mills that we have received some information on the background and what have you. We will put that in the record as part of your response, and if you want to review that or add anything else, we will be glad to accept that too, Mr. Rogers.

[The information follows:]

SAVINGS FROM A MERGER OF THE SALARIES AND EXPENSES AND INTERNATIONAL AFFAIRS APPROPRIATION

What savings are expected as a result of the merger of the salaries and expenses and international affairs appropriations?

A merger of these appropriations will have several positive effects:

—Simplifying many procedures, including departmental, Office of Management and Budget, and congressional review of the budget;

—Eliminating duplication of reports—such as accounting, personnel, and payroll reports—since only one report for Departmental Offices will be required; and

—Providing flexibility in responding to and planning for Departmental Offices' financial needs and unplanned changes in workload demand.

Savings of $100,000 and three positions were proposed as a result of the merger request in the fiscal year 1983 budget. These savings were accepted by the Congress even though the merger was not approved.

No additional savings are, therefore, projected for fiscal year 1988. We again propose the merger to enhance the operating efficiency and funding flexibility of the Departmental Offices' function.

FACT SHEET

MERGER OF THE SALARIES AND EXPENSES AND INTERNATIONAL AFFAIRS APPROPRIATIONS

ISSUE

Rationale for the merger of the salaries and expenses and international affairs appropriations.

BACKGROUND

For several years, Departmental Offices was funded by two separate appropriations—salaries and expenses and international affairs (formerly a part of the offbudget exchange stabilization fund).

Beginning with the development of the fiscal year 1983 budget, however, a merger of the two appropriations was proposed to improve the administration and management of Departmental Offices. The budget was then presented in a merged format for the formulation and presentation process.

The House and Senate both rejected the request for the merger in fiscal year 1983. In fiscal year 1984 the Senate approved the merger while the House denied it. The fiscal year 1984 continuing resolution language provided funding for the Treasury Department at the Senate committee action level, which had approved the merger.

At this point the accounting, personnel and budget execution offices merged the accounting, payroll, and other records into one appropriation for fiscal year 1984.

In its review of the fiscal year 1985 Departmental Offices' budget request, the House disapproved the merger. Although the Senate again approved the request for a merger, the conference committee action sustained the House's disallowance of any merger of the two appropriations. The two appropriation structure was reinstated in fiscal year 1985 by Departmental Offices' budget, accounting, and personnel staff.

As a result, for the fiscal year 1986 budget request to the Office of Management and Budget, Departmental Offices submitted two budget requests: one for salaries and expenses and one for international affairs. The Office of Management and Budget gave Departmental Offices one consolidated budget allowance and requested that the technical schedules for the fiscal year 1986 President's budget be developed and presented in a merged format. As a result, departmental offices again requested the merger in the fiscal year 1986 request presented to Congress.

The merger was disallowed for fiscal year 1986 by the House but was approved by the Senate; however, the conference committee sustained the House's disallowance of the merger.

The merger was proposed again in the fiscal year 1987 budget request. Again it was disallowed by the House, approved by the Senate and disallowed by the conference committee.

FISCAL YEAR 1988 REQUEST FOR MERGER

In fiscal year 1988 Departmental Offices is again proposing the merger of the salaries and expenses and international affairs appropriations, for the same reasons as in the past:

First, Departmental Offices is, in actuality, a single, integrated organization responsible for providing the Secretary with staff support in matters of policy analysis and coordination for the entire Department. It usually functions, and is treated, as a Treasury bureau. This is true, despite the fact that it is funded by two appropriations. The Department, the Office of Management and Budget and other agencies treat Departmental Offices as one organizational unit and prefer to deal with it in this manner.

Second, the origin of a dual source of funding for Departmental Offices is found in the prior offbudget status of the international programs.

—This split in funding was necessary as long as one account was appropriated (salaries and expenses) and one was not (exchange stabilization fund); therefore,

—After the "International affairs" account went onbudget, the rationale for split funding no longer existed.

The merger of these accounts will improve administrative management of Departmental Offices by:

—Eliminating duplication of standard reports;

—Integrating financial planning and management to correspond to programmatic planning and management; and

—Providing flexibility in responding financially to changes in policy needs.

The merger will assist congressional review by:

—Simplifying the manner in which the Departmental Offices' budget is presented to and reviewed by Congress; and

—Continuing to display the main international economic policy functions—Office of the Assistant Secretary for International Affairs—as a separate budget activity.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

DIGEST OF BUDGET ESTIMATES BY ACTIVITIES FOR FISCAL YEAR 1988

[Dollars in thousands]

	Actual fiscal year 1986		Proposed authorized level fiscal year 1987		Budget estimate fiscal year 1988		Increase (+) or decrease (-) for fiscal year 1988					
							Total changes		Program changes		Other changes	
	Average position	Amount	Average position	Amount	Average position	Amount	Average position	Amount	Average position	Amount	Average position	Amount
Secretarial policy and program development	410	$20,168	425	$21,713	425	$22,931		+$1,218				+$1,218
Salaries and expenses	359	17,852	376	19,010	376	20,078		+1,068				+1,068
International affairs	51	2,316	49	2,703	49	2,853		+150				+150
Inspector general	119	5,029	114	5,125	114	5,436		+311				+311
Salaries and expenses	119	5,029	114	5,125	114	5,436		+311				+311
International affairs												
International affairs	229	13,068	227	13,338	227	14,224		+886				+886
Salaries and expenses												
International affairs	229	13,068	227	13,338	227	14,224		+886				+886
Departmental management and administration	345	24,940	376	26,006	367	26,607	-9	+601			-9	+601
Salaries and expenses	283	21,471	297	22,395	288	22,972	-9	+577			-9	+577
International affairs	62	3,469	79	3,611	79	3,635		+24				+24
Building maintenance and operations	67	9,411	77	11,118	77	11,270		+152				+152
Salaries and expenses	45	6,824	49	7,616	49	7,714		+108				+108
International affairs	22	2,587	28	3,512	28	3,556		+44				+44
Repairs and improvements		683		5,650		573		-5,077				-5,077
Salaries and expenses		683		5,650		573		-5,077				-5,077
International affairs												
Unobligated balance		118										
Salaries and expenses		81										
International affairs		37										

DEPARTMENT OF THE TREASURY—Continued

DEPARTMENTAL OFFICES—Continued

DIGEST OF BUDGET ESTIMATES BY ACTIVITIES FOR FISCAL YEAR 1988—Continued

[Dollars in thousands]

	Actual fiscal year 1986		Proposed authorized level fiscal year 1987		Budget estimate fiscal year 1988		Increase (+) or decrease (-) for fiscal year 1988					
							Total changes		Program changes		Other changes	
	Average position	Amount	Average position	Amount	Average position	Amount	Average position	Amount	Average position	Amount	Average position	Amount
Total appropriation, authorized level and budget estimate	1,170	73,417	1,219	82,950	1,210	81,041	-9	-1,909			-9	-1,909
Salaries and expenses	806	51,940	836	59,786	827	56,773	-9	-3,013			-9	-3,013
International affairs	364	21,477	383	23,164	383	24,268		+1,104				+1,104
Permanent positions established	(1,245)		(1,255)		(1,246)		(-9)				(-9)	
Salaries and expenses	(845)		(855)		(846)		(-9)				(-9)	
International affairs	(400)		(400)		(400)							

OBJECT CLASS BREAKOUT BY APPROPRIATION

(DIRECT OBLIGATIONS ONLY)

[Dollars in thousands]

Classification	Fiscal year 1986 actual			Fiscal year 1987 proposed authorized level			Fiscal year 1988 budget request		
	S&E	IA	Total	S&E	IA	Total	S&E	IA	Total
Personnel compensation:									
Permanent positions	30,215	13,090	43,305	31,980	14,399	46,379	32,435	14,654	47,089
Positions other than permanent	608	263	871	600	274	874	609	278	887
Other personnel compensation	856	426	1,282	747	340	1,087	755	345	1,100
Special personal services compensation	80	289	369	211	96	307	213	98	311
Total personnel compensation	31,759	14,068	45,827	33,538	15,109	48,647	34,012	15,375	49,387
Personnel benefits	3,680	2,114	5,794	4,683	2,479	7,162	6,013	3,317	9,330
Benefits for former personnel	0	45	45	0	0	0	0	0	0
Travel and transportation of persons	385	508	893	631	529	1,160	571	479	1,050
Transportation of things	163	215	378	150	204	354	150	204	354
Rents, communications, and utilities:									
Standard level user charges	1,377	74	1,451	1,325	588	1,913	1,478	588	2,066
Other rents, communications and utilities	4,342	1,802	6,144	5,031	1,848	6,879	5,137	1,848	6,985
Printing and reproduction	836	131	967	812	81	893	822	81	903
Other services	3,677	2,049	5,726	5,543	1,829	7,372	5,593	1,879	7,472
Supplies and materials	1,522	223	1,745	1,245	308	1,553	1,245	308	1,553
Equipment	3,435	211	3,646	1,178	189	1,367	1,179	189	1,368
Lands and structures	2,569	0	2,569	6,650	0	6,650	1,573	0	1,573
Insurance claims and indemnities	0	0	0	0	0	0	0	0	0
Total obligations	53,745	21,440	75,185	60,786	23,164	83,950	57,773	24,268	82,041
Unobligated balance lapsing	81	37	118	0	0	0	0	0	0
Obligation of prior year R&I funds	(1,886)	0	(1,886)	(1,000)	0	(1,000)	(1,000)	0	(1,000)
Total budget authority	51,940	21,477	73,417	59,786	23,164	82,950	56,773	24,268	81,041

NOTE.—The information is consistent with page DO–10 of the congressional submission, which corrects the President's appendix page I–S2.

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DEPARTMENTAL OFFICES: SALARIES AND EXPENSES AND INTERNATIONAL AFFAIRS COMPONENTS

If the Departmental Offices' fiscal year 1988 request was separated into the salaries and expenses and international affairs appropriations, what resources would be available for each?

	Permanent positions	Average positions	Appropriation
Fiscal year 1986:[1]			
Salaries and expenses	845	806	$51,940,000
International affairs	400	364	21,477,000
Total	1,245	1,170	73,417,000
Fiscal year 1987:[2]			
Salaries and expenses	855	836	59,786,000
International affairs	400	383	23,164,000
Total	1,255	1,219	82,950,000
Fiscal year 1988:[3]			
Salaries and expenses	846	827	56,773,000
International affairs	400	383	24,268,000
Total	1,246	1,210	81,041,000

[1] Reflects actual appropriations and average positions for fiscal year 1986.
[2] Proposed authorized level for fiscal year 1987.
[3] Budget estimate.

INTERNATIONAL AFFAIRS AT LAST YEAR'S LEVEL

Mr. ROGERS. In fiscal year 1984, the continuing resolution reflected a merge of the accounts. Then in fiscal year 1985, the House objected, so then we had to completely separate them again.

Senator DECONCINI. According to the breakdown provided the subcommittee, Treasury is requesting a total of $24,268,000 for international affairs activities next year, an increase of $1,826,000, or 8 percent over last year. What would be the effects on Treasury international operations if you were to hold to last year's level of $22,442,000? Can you be specific as to what would happen?

Mr. ROGERS. I think the interesting fact is when you look at it in that total amount—the $24 million—that includes the overhead costs that are associated between having these two appropriations split. The true cost of operating the international affairs activity, the Office of International Affairs, is really $14 million. The remaining $10 million is the prorated charges that are associated with overhead costs that are allocated to other divisions within Treasury.

A reduction of $1 million would be probably split among overhead cost, those people associated with overhead are split between appropriations, and also with OASIA itself, so that we probably would have to take some personnel reductions.

Senator DECONCINI. Are you saying that if you had just one account, you could get along with $1 million or more or less dollars and meet your same——

Mr. ROGERS. No; what I am saying is because of having those two accounts separate and having overhead costs associated with that appropriation prorated between the two, a reduction would be spread to other divisions within Treasury.

Senator DECONCINI. You would not have that if the accounts were together?

Mr. ROGERS. We would not have that but we would still have those overhead costs we would still be supporting——

Senator DECONCINI. There would not be any savings, actually?

Mr. ROGERS. No, sir; there would not be. I should say this is an activity in which the Secretary has taken very active participation and I think the Department within the last 2 years has been extremely active in the area of international finance.

SUPPLEMENTAL REQUESTS

Senator DECONCINI. You are requesting, Mr. Rogers, a number of supplementals, including $5 million for the renovation of the Treasury Annex Building, and $650,000 for the establishment of the Office of Depreciation Analysis. The balance of your supplemental request covers pay and FERS. What would be the effect on your operations if you do not receive any of these supplemental requests? Can you tell us where and what the cuts would force you to absorb as it relates to pay and FERS?

Mr. ROGERS. If I could, for a moment, just review what those supplementals are, because I think it is important. With the annex renovation—which is our building across the street on Pennsylvania Avenue—as you recall, money was requested but then denied in, I think, fiscal year 1985, simply because of a dispute over where the Financial Management Service would be moving to and relocating.

That has been resolved and what now will be the situation is that that building will be vacant and it will be the one opportunity that we have to go in and do renovation to it, correcting some of the mechanical systems, putting in the new fire safety procedures, all of these sort of things while it is vacant. It is a perfect opportunity.

It is the first time that this will be able to be addressed in the 68 years since the building was constructed and I think it is the perfect opportunity. I might add that this is exactly the same money—$5 million—that was requested in fiscal year 1985. So we have been able to re-propose it at exactly the same cost.

In the area of the Office of Depreciation Analysis, section 201 of the Tax Reform Act of 1986 included a provision that mandated Treasury to create this office to measure more accurately the class lives of depreciated assets and to assign those lives within ranges more accurately because of changing technology or where they did not exist.

Some of these determinations have been in existence since 1962, and frankly, the obvious question is, can you not just absorb that, it is already within the Office of Tax Analysis. Our view is that no, we cannot, that that office is already pushed to a great degree and Assistant Secretary Mentz strongly feels that he needs the additional personnel. I think that is very justified.

We are pushing them now for doing a lot of modeling. We are trying to do some new work with measuring indirect revenues as well as direct

revenues, and it is just impossible to do it without having a separate office.

Senator DECONCINI. I do not dispute that you probably need the building renovation. The problem is, as you know, priorities. Where do we find $5 million? Out of education or out of modeling? And it puts us in a very difficult situation here, to say the least.

TRANSFER AUTHORITY

I notice that once again you are asking for authority from the Congress to allow a transfer of up to 5 percent between appropriation accounts with notice given in advance to the House and Senate Appropriations Committees. As you know, currently you are only authorized to transfer 1 percent between accounts with approval of the two committees.

Frankly, I am very reluctant to allow such transfers, but I want to give you an opportunity to go on the record and tell us why we should allow Treasury to increase or decrease an appropriation line item by 5 percent with only prior notification to the two committees and not approval. What is wrong with what we did last year and in prior years?

Mr. ROGERS. I would say, Mr. Chairman, the simple answer is simply flexibility in the Department to be able to move those appropriation amounts. And we find that when we get into certain accounts it becomes very difficult at a 1-percent level to do it. As for the matter of prior notice or approval, I frankly do not have a strong opinion on that.

My recommendation would be if that is part of the problem, to give us a 5-percent authority with the concurrence of Congress. Since I have been at the Treasury I have operated in that vein, as you may know, continuously.

Senator DECONCINI. Yes; I do not recall having any problem from your standpoint of getting approval; is that not right?

Mr. ROGERS. No; we have never had any difficulty with it. It is simply a matter of——

Senator DECONCINI. So if you could have the administrative flexibility——

Mr. ROGERS. Of the 5 percent.

Senator DECONCINI [continuing]. Of 5 percent but approval of the two committees, that would satisfy you, also.

Mr. ROGERS. Absolutely.

Senator DECONCINI. Thank you. I am glad we went over that because it makes me feel a little better and we will see if we can accommodate you. I will talk to the ranking member, and now I am going to let him talk.

FEDERAL FINANCING BANK

Senator DOMENICI. Mr. Chairman, I had similar questions but I do want to ask one. You are requesting a $2 million direct appropriation to administer the Federal Financing Bank activities. What is the rationale for requesting direct funding as opposed to what we have been doing

for a long time, which is a reimbursable financing method? From what I can tell your budget justification reflects no positions in terms of this request.

Mr. ROGERS. Last year we proposed that we put the Federal Financing Bank on a direct appropriation basis instead of on a reimbursable basis. Right now the positions are on a reimbursable basis in the "Departmental Offices" account.

Frankly, there was a very strong view, particularly within OMB, that that account be put on a direct operating basis. This year in our discussions with OMB the Department insisted that it not be part of—if they felt that way, that it should be set up as a separate account and not part of our own Departmental Offices activity. But the bottom line is to show more accurately the administrative costs of operating the bank. It is $2 million. It was $2 million last year. It has about 19 FTE's associated with it.

TWO-YEAR APPROPRIATION

Senator DOMENICI. Mr. Chairman, the only other question I have is the one that I have asked you as chairman to submit to each department or agency with reference to whether they would favor a 2-year appropriation and whether they could supply the committee with a response stating if they were opposed to it, why, and how much of their budget has been just a recurring request. And I would ask the same of this witness.

Mr. ROGERS. We would be very happy to do it.

[The information follows:]

TWO-YEAR APPROPRIATION

I believe that the majority of the managers in the Treasury Department would favor a 2-year appropriation. In addition to obvious reduction in work associated with preparing an annual budget request, managers would spend more time in directing program operations and working toward fulfilling program objectives. Budget staff would also spend more time than is now possible enhancing comprehensive financial management systems. There would be a savings of approximately 30–35 percent in budget formulation workload if a 2-year appropriation process became law. This savings would be applied to improving overall financial analysis.

During the last 5 years, Departmental Offices has submitted program supplementals only in fiscal year 1987 for the Treasury Annex renovation and establishment of the Office of Depreciation Analysis. Additionally, nonprogram supplementals have been submitted for pay raises. Accordingly, we do not project that a 2-year appropriation cycle would result in significant off-year Departmental Offices submission of supplemental budget requests.

FAVORING 2-YEAR PROCESS

Mr. ROGERS. I think that you will find that most of the people associated with the Department would favor that process. As managers, I think all of us have found that so often in this process there are so many starts and stops—whether they are because of disputes between OMB and the Congress—that make it very, very difficult in trying to manage programs. Because at times, whether there are rescissions proposed, or deferrals, or simply a matter of increased appropriations——

Senator DOMENICI. OMB does that to you also?

Mr. ROGERS [continuing]. That is a difficult situation to be in. So we would very much—I think every witness here would say exactly the same thing—favor that.

Senator DOMENICI. Mr. Secretary, as you answer that on behalf of the various entities under your jurisdiction, you might give us your thoughts on the one objection that we keep hearing here—that has to do with the need for supplementals—you might address that as managers, how that might be handled, either from the standpoint of some way to assess an overage that would be available, or you might give us some historic notion of just how serious that kind of problem would be if you had 2-year appropriations.

Mr. ROGERS. Senator, I would be happy to do that. I would say probably you would find in most cases that there would be less need for supplementals because there would be the ability to more accurately budget on that basis, and my view is there would probably be less need, without some unforeseen activity that would come up tasking one of the bureaus in the Department to do some specific thing, for example, associated with the drug bill that we had to go and take certain actions.

Senator DOMENICI. Thank you very much. Thank you, Mr. Chairman.

Senator DECONCINI. The Senator from New York.

Senator D'AMATO. Mr. Chairman, in my opening statement which I submitted for the record I raised a question as it relates to the rumors and reports—some reports, some rumors—that we get regarding the U.S. Mint and its operation at West Point and the minting of certain coins which is conducted there. There seems to be some concern that this operation might be closed and moved to Philadelphia.

Let me say at the outset that I have heard that the work there is excellent, of the highest quality. As a matter of fact, the gold coins commerating the bicentennial of our Constitution will be minted there. I am wondering if we reward high quality work by closing a facility down? I wonder if we reward an excellent security system by maybe compromising or moving an operation to a facility which is less secure.

I have a few questions that I would like to ask in this regard, and I do not know if you, Mr. Secretary, want to answer them?

Mr. ROGERS. I would be happy to, and I would say that the Director of the mint is here as well and I will give her an opportunity to address them as well.

Senator D'AMATO. If I am wrong, I would like to hear about it—but, as I have mentioned, there are those who have told me there is an excellent Gold Bullion Coin Program at the West Point depository. Are you familiar with the operation and would you agree that the work is outstanding?

Mr. ROGERS. Absolutely, without any question.

Ms. POPE. The work force at West Point, of course, is an excellent work force and they have done an excellent job under some difficult circumstances with the demand and the tremendous response to the

American eagle gold coins. And I have got samples, by the way, in my pocket for the committee to see a little later so you can see West Point's work. No; I am going to take them back with me, Senator. But you can see the work that is done at West Point.

When the gold eagle legislation was enacted we did discuss the possibility of perhaps developing some gold manufacturing capability in Philadelphia because West Point was, at that time, ending up the Statue of Liberty Program and would be doing only the bullion coin program.

Now, from a management standpoint I think you can understand that the demand for the bullion coins goes up and then it goes down, and we certainly have seen that. The demand was phenomenal in the first 3 months. We now have days when nobody buys. So the demand is now down and we were, as managers, from a business standpoint trying to use our work force to the best possible means.

In Philadelphia, of course, we do circulating coinage, and uncirculated for the collectors, as well as other things. So when demand was down we could have the employees work on something else and then when demand came up move the employees back to there, a good business way of using a work force.

However, the legislation hit and we had to move fast. We put it into West Point. They are doing a very good job on the bullion program and frankly I do not foresee, in the immediate future at least, any plan to move the bullion coin program out of there. What you might have heard just recently is the fact that we still want to develop a proof-coin operation and the capability of working with gold somewhere other——

Senator D'AMATO. A who coin?

Mr. ROGERS. Proof.

Ms. POPE. We also do a proof version of that gold coin. This year we did only the 1 ounce. Next year we will do the 1 ounce and the one-half ounce. At the same time Congress enacted the bicentennial of the Constitution legislation and in that legislation mandated that the gold coin be done at West Point. Now, the timeframe on this is very short. Of course, most activity will happen with the bicentennial of the Constitution in September. We need to manufacture a great many coins as fast as we can while at the same time doing the bullion coin which Congress, and Senator Exon, particularly, is interested in.

Senator D'AMATO. Well, I am interested in the West Point facility not having its operation—to be quite candid with you—salvaged.

Ms. POPE. Well, it is not.

Senator D'AMATO. Well, it is not because there has been a lot of interest expressed in both the House and some in the Senate. Now, the Senate, maybe, has been lagging. So I am going to take up that lagging part, you know, and tell you that I would hope that we are not going to have to move by way of legislation to prohibit that kind of situation, but I am busily now engaged in rounding up support to see to it that if it comes down to that, that that is what we will do.

Mr. ROGERS. Senator, I should say that the Secretary has been to the West Point facility and he has made the decision the facility will not be

closed, and so I would say that sort of ends the debate for the remainder of this administration.

Senator D'AMATO. Well, that is good news, Mr. Secretary, because that is the first assurance. We have had all of these around and abouts and you have got the work force deeply disturbed. You have got the manager of the facility—he does not know whether he is coming or going or if he is going to be in or out. And so I will assure him that we will certainly, it would seem to me, get ample notice and not get one of these 30-day shutdown notices.

Mr. ROGERS. Absolutely.

Senator D'AMATO. Or movement notices.

Ms. POPE. Well, that was never the intent.

Senator D'AMATO. Well, what the intent is in the deep dark bowels of OMB or Treasury, you know, at times is not always manifested out in the field. It comes out in a different way. And I have to suggest to you that Congressman Annunzio has expressed his concern and I can express mine.

But I am very pleased that we are not going to get any movement in the immediate future during this administration as regards West Point. Is that right?

Mr. ROGERS. That is absolutely correct sir, I can guarantee it.

Senator D'AMATO. Thank you very much, Mr. Chairman.

FINANCIAL MANAGEMENT SERVICE

Senator DECONCINI. Gentlemen, thank you. We will go on to Mr. Douglas, Commissioner of the Financial Management Service. Mr. Douglas, your full statement will be put in the record, if you would summarize it for us.

Mr. DOUGLAS. Thank you. Mr. Chairman, members of the committee. I would like to take a few moments of your time to highlight some of the activities of the Financial Management Service.

PAYMENT VOLUMES

The payment function which we perform for the Government is fairly well known. We have seven centers around the country and we produce almost 760 million payments each year for Federal agencies. The vast majority of those payments are to Social Security recipients, which comprise approximately two-thirds of all payments. That is over 500 million payments each year to Social Security recipients. Of 760 million payments, approximately 300 million are made by direct deposit electronic funds transfer. The rest are by check.

COLLECTION MECHANISMS

What I think is probably less well known about the Financial Management Service is our role in collecting revenue for the Government. Last year we managed collection mechanisms maintained throughout the country that collected slightly over $1 trillion, and that is pretty much the revenue side of the Government's operations.

Those mechanisms are several. The most important one is called the Treasury Tax and Loan System, in which we maintain relations with 14,000 banks. Employers and businesses pay into those accounts through Federal tax deposits. The money is withheld—Social Security as well as income tax—from their employees, and that particular mechanism brings in well over $600 billion a year.

Another collection mechanism are the Treasury general accounts. These are special bank accounts that we set up in about 450 banks across the country to have other Federal agencies make deposits into. The concept here is to very quickly get that money into the bank and credited to the Treasury so that we begin to earn interest. Savings, incidentally, from these collection mechanisms total well over $1 billion, which reduces the deficit, obviously.

We also have a financial communications network that we use for electronic funds transfer [EFT] for very large sums of money moving around the country; that involves a little over $100 billion. Our newest and smallest mechanism is the lock-box system which we maintain with five banks geographically spread over the country. Payments come into those lock boxes and are very quickly credited to the Treasury account.

PROFIT CENTER

This particular chart, I think, makes the point quite graphically that the Financial Management Service is a profit center for the Government. We make money for the Government and for the taxpayer. In blue are figures from fiscal year 1985 projected through fiscal year 1990 that show you our appropriation request.

In green, we show you the amount of money in earnings and savings that we earn for the Federal Government. In fiscal year 1986, the year that just passed, for every dollar that this committee appropriated to us, we returned to the Treasury and the taxpayers $10. So we are not an expenditure organization, we are a revenue-producing organization.

Senator D'AMATO. If we give you more money are you going to continue 10 to 1?

Mr. DOUGLAS. Yes, sir.

Senator DECONCINI. Well, what if we gave you less money? What if you get $1 less? Does that guarantee that we are going to get $10 less?

CONSTANT DOLLARS

Mr. DOUGLAS. In a moment, I will show you something that I think relates directly to your question, Mr. Chairman. This chart shows our budget requests since the beginning of this decade, from fiscal year 1980 through fiscal year 1987. In constant 1980 dollars, you will see that we have almost a flat line. In fact, there are little variations from fiscal year 1980 to fiscal year 1987, but in constant 1980 dollars, our fiscal year 1987 budget was 1 percent lower than our fiscal year 1980 budget.

HISTORICAL FTE CEILINGS

Similarly—this is our staffing—in fiscal year 1980 we had authorized 2,933 positions, FTE's, full-time equivalency positions. In fiscal year 1987 it was 2,346, a quite dramatic drop in staffing—about 20 percent—and the obvious question is how do you manage to produce large savings and earnings with a flat budget and declining staff. Incidentally, since fiscal year 1980 our responsibilities in financial management in Government have expanded dramatically.

So, how do we manage with 20 percent fewer people, and with a flat budget in constant 1980 dollars, to expand responsibilities and operations? I am sure that you have already concluded that it is good management; it is good management. But it is also something else.

This committee has given us money over the years to make improvements in systems, to add systems where none exist, to modernize, to use automation and technology. That money that you have given us has not been an expenditure, it has been an investment. We have returned to you and to the taxpayers substantial amounts of money as a result of that investment.

FISCAL YEAR 1988 IMPROVEMENT PROJECTS

This last chart shows the fiscal year 1988 budget request. There is a very small piece of that—5 percent, which is about $12,600,000—that is for new initiatives, and systems improvements and technology improvements. If you project returns from that little piece there of $12.6 million, this large box is what we will give you back in savings over a 5-year period.

From fiscal year 1988 to fiscal year 1992 the savings and the earnings to the Government, to the taxpayers, for that investment of $12.6 million totals $890 million.

Senator DECONCINI. What will we get next year from it—in 1988?

Mr. DOUGLAS. Well, this is for the fiscal year 1988 budget. We have to get the money and then start putting it to use.

Senator DECONCINI. So you do not get anything in 1988. What do you get in 1989?

Mr. DOUGLAS. We can give you the breakdown by year.

Senator DECONCINI. OK.

Mr. DOUGLAS. But over that 5-year period—and it grows, obviously—but over that 5-year period it will be $890 million. Now, you said, what happens if you do not give us the money. Let me show you something that happened as a result of the Gramm-Rudman cut to us in 1986—and incidentally, I will provide committee members with this chart.

[The information follows:]

PROGRAM SAVINGS[1]

[In millions of dollars]

	Fiscal year—					
	1988	1989	1990	1991	1992	Total
FISCAL YEAR 1988 INITIATIVES						
Credit administration support:						
Credit administration information system			20.0	20.0	20.0	60.0
Credit data management			140.0	146.0	151.0	437.0
Credit administration enhancements	39.0	39.0	39.0	39.0	39.0	195.0
Cash management information impact module				55.3	55.3	110.6
Cash management forecasting	2.0	6.0	6.0	6.0	6.0	26.0
Financial information analysis		16.5	16.5	15.4	15.4	63.8
Central accounting system modernization						
Total initiatives	41.0	61.5	221.5	281.7	286.7	892.4

[1]Program savings reflect cuts to the fiscal year 1988 budget resulting from the OMB mark.

SAVINGS AND EARNINGS

Mr. DOUGLAS. But here is a chart that shows going up, up, up, savings to the Government for fiscal year 1983, fiscal year 1984, fiscal year 1985, and fiscal year 1986. It starts at like $1.1 billion, $1.6 billion, $1.9 billion, $2.1 billion, $2.4 billion. In fiscal year 1986, like everyone else in Government, we took a cut under Gramm-Rudman. For the Financial Management Service, it was a little over $10 million. But because of our activities, we spend almost $100 million of our budget supporting Social Security payments, claims, reconciliation of payments, because we spent almost $40 million paying banks for that Treasury Tax and Loan system that I spoke of. This brings in over $600 billion—so for a $40 million investment, there is $600 billion in revenue. Because of those kind of fixed costs, we had to take all of that cut—all of it—against our efforts to improve, to modernize, and to take on new initiatives.

PREPARED STATEMENTS

And I do not think it is accidental that our projection for fiscal year 1987 drops from $2.4 billion in savings and earnings in 1986 down to $2.1 billion. In other words, we missed some opportunities. And in the long run that is going to cost the Government money. I hope that answers your question.

[The statements follow:]

STATEMENT OF WILLIAM E. DOUGLAS

Mr. Chairman and members of the Committee, I am pleased to have this opportunity to present the Fiscal Year 1988 resource requirements of the Financial Management Service. The mission of the Financial Management Service is "to promote the financial integrity of the United States Government through sound money management on behalf of the public". The key to accomplishing our mission is our ability to manage effectively the movement of Federal funds and to make optimal use of Federal financial information. The Service's responsibilities stem from our obligation to the public and our commitment to excellence on their behalf. As cash manager of the majority of Federal cash flows, the Service controls more money than any organization in the world, managing $2 trillion in collections and payments annually. This amounts to $9 billion each business day. I would like to direct your attention to our other rapidly expanding responsibilities, those of improving Governmentwide financial management.

Our financial management efforts have proven to be very effective and highly profitable. We have had the lead agency responsibility for cash management for over three years and each year the savings resulting from effective cash management techniques have grown. In FY 1986 alone, it reached $1.3 billion. As a result of our record of accomplishments in cash management, other responsibilities have come our way. Last year the Treasury and the Office of Management and Budget agreed that the Service should assume lead agency responsibility for improving credit administration/debt collection practices in the Federal Government, and more recently we took on the task of finding ways to bring about substantial improvements in agency financial systems.

The Service is requesting $270,004,000 and 2,306 average positions for Fiscal Year 1988. This request represents an increase of $25.4 million and 12 average positions over our Proposed Authorized Level for FY 1987. Our resource request responds to the

Service's strategic objectives to provide financial leadership within a framework of modern, secure and reliable systems. In addition, our FY 1988 request reflects a vision, shared with the Comptroller General and the Office of Management and Budget, on how the Federal financial world must look if Government managers are to be effective in reducing deficits while carrying out legislative mandates.

The Service is also proposing a Supplemental Appropriation Request of $4,500,000 for FY 1987. This includes an increase of $1,430,000 in the cost of personnel salaries and benefits as a result of the 3% pay increase, effective January 1987. We are also requesting $1,170,000 for the cost of personnel benefits as a result of the new Federal Employees Retirement System. Lastly, we are proposing a program supplemental of $1,900,000 to fund the Service's relocation to the Liberty Loan Building, the companion move to our earlier consolidation of over 1,000 employees into the Prince Georges Center II Building.

The Service is a profit center. Our appropriation request is an investment - an investment with a high rate of return. Through the use of our various credit and cash management techniques and the development of efficient collection systems, we have been able to produce major program savings. In FY 1986, these efforts reduced the cost of borrowing by $1.5 billion, thereby helping to reduce the deficit. In addition, we earned $.9 billion in interest from the Treasury Tax and Loan Investment Program. This was ten times more than our FY 1986 appropriation of $234 million. Between FY 1987 and FY 1992, these savings are expected to reach a cumulative total of $12.4 billion. In FY 1989, as a result of Congressional funding of the initiatives in our FY 1988 budget request, we expect total savings and earnings to be $2.1 billion. Interest earned from the Treasury Tax and Loan Investment Program will account for $.7 billion, and savings directly tied to the Service's efforts to manage more effectively the Government's money will be $1.4 billion.

The Service's request is divided into six functional areas as well as an administrative function. The functional areas include: (1) Field Operations; (2) Headquarters Operations; (3) General Financial Services; (4) Federal Finance; (5) Federal Tax Deposit Fee Payments; and (6) Information Systems. The administrative costs are divided proportionally into the six functional areas.

Field Operations

The Field Operations activity requires $147,369,000 and 947 average positions for FY 1988. This activity is by far the largest operating entity in the Service. It is responsible for issuing over 750 million payments for Federal civilian agencies through checks and electronic funds transfers (EFT); issuing bonds; processing EFT claims; performing the initial work on check claims; and providing full field representation for other functional areas of the Service. Over half of the Service's resource requirements and 40 percent of its average positions are concentrated in the Field Operations area. Of considerable significance is the fact that 56 percent ($82 million) of the resources requested for this activity are to pay postage costs. The Financial Management Service will issue over 605,000,000 payments to recipients of Social Security, Supplemental Security Income, Veterans and recipients of other Government benefits in FY 1988. These payments represent roughly three-quarters of the payments issued by the Service. The basic goal of the Field Operations activity is to ensure secure, reliable and effective systems which protect the financial integrity of the payment process.

Five years ago I testified before this Subcommittee about the interim computer system which we were placing in our Regional Financial Centers as a stopgap measure. At that time I said that we would need a major, comprehensive system redesign in a few years which would allow us to assure both the security and the reliability of this critical Government function into the 1990's. That time has come, and we are asking for initial funding to begin the replacement in FY 1988.

Headquarters Operations

The Headquarters Operations activity requires $26,825,000 and 570 average positions in FY 1988. This organization is responsible for important financial control and integrity activities related to the Federal payment and collection processes, including check reconciliation and claims activities. We assist the public by adjudicating and settling claims that result from lost, stolen, or destroyed Government checks. In FY 1986 alone, we recovered $90 million from the nation's banks due to forged checks and improper charges.

General Financial Services

The General Financial Services activity requires $2,047,000 and 42 average positions in FY 1988. This activity provides financial services for approximately 100 trust and miscellaneous accounts, including the two Social Security Trust Funds, the two Medicare Trust Funds, the Unemployment Trust Fund, D.C. Government Loan accounts, and the Airport and Airway Trust Fund. In addition, this activity provides for payment of domestic and international claims.

Federal Finance

The Federal Finance organization requires $19,150,000 and 341 average positions in FY 1988. This activity has the lead agency responsibility for working with Federal agencies to establish and manage efficient, cost effective cash management and credit administration/debt collection programs. In addition, it ensures the integrity of the Government's financial accounting and reporting; and provides financial services to the Government at large and to private sector users of Government financial information. In the lead agency role for the Government, Federal Finance develops processes and procedures to enable program agencies to comply with management policy and assists agencies in their use and compliance. These efforts involve all aspects of the

Government's cash management, credit administration/debt collection programs and its accounting, reporting and financial management systems.

Cash management, credit administration/debt collection and funds control functions result in substantial savings to the Government by reducing the cost of depositary services; minimizing the levels of cash held outside the Treasury; enhancing the daily utilization of funds, facilitating proper timing of disbursements; and accelerating the flow of money owed the Government into the Treasury. Last year almost $2 trillion in cash flow was managed or influenced by this organization.

Federal Tax Deposit Fee Payments

Federal Tax Deposit Fee Payments requires $39,100,000 and one average position in FY 1988. This activity provides for fee payments to approximately 14,000 banks for Federal Tax Deposits processed under the Treasury Tax and Loan Investment Program. Collections total approximately $600 billion and Treasury, in turn, earns interest of over $700 million on funds held on deposit.

Information Systems

For the Information Systems activity we are requesting $35,513,000 and 405 average positions in FY 1988. Information Systems has the responsibility of overseeing the development, implementation, improvement, and in some cases the operation of information and financial management systems which support and promote sound money management in the Federal Government. As a part of this process, Information Systems supports a large number of developmental efforts which will enhance the payments, collections, accounting and reporting, and resource management efforts of the Service. A major thrust of these developmental efforts is to ensure that the Service's systems are integrated to the maximum extent to eliminate and reduce inefficiency and redundance. Their efforts have been a major reason that we have

been able to save the American taxpayer billions of dollars as well as reduce our staffing level by 20% over the past several years.

Mr. Chairman, as stated earlier, our FY 1988 budget increase is $25.4 million over our Proposed Authorized Level for FY 1987 and $29.9 million over our Continuing Resolution funding level for FY 1987. In the early 1980's, Congress saw fit to invest and finance major improvements for the Financial Management Service. These improvements have enabled us to reduce our staffing and meet our expanding mission requirements. However, due to G-R-H sequestrations in FY 1986 and reductions to our FY 1987 Appropriation Request, we did not receive funds for our urgent improvement efforts. We see our FY 1988 budget request as essential in order to meet our basic operating needs and our critical improvement efforts. We do not take our responsibilities lightly, and we need your active and effective support to make things happen in the financial management arena. The total amount of program changes identified in FY 1988 is $12,620,000 and 12 average positions. These program changes support the Service's obligation to the public and the implementation of improvements across the entire Government.

For FY 1988 we have identified five major initiatives:

1. Financial Operations Systems Integrity (Systems 90)

This initiative is vital to ensuring the integrity, security and full operational effectiveness of Federal payment systems into the 1990's. Upon completion of this effort, old hardware and software will be replaced and the Service will be in compliance with message authentication security requirements. The primary objective is to overhaul and modernize the already strained Regional Financial Centers' (RFCs) systems in order to ensure secure, reliable and effective systems which will protect the financial integrity of the payment process and accelerate the claims process for the public. This is essential to assure the

viability of the Government's payment systems in the 1990's. Systems 90 will enable the Service to support the movement of a large share of Federal payments to electronic funds transfer and reduce unauthorized payments through alteration of payment documents and check forgeries. Systems 90 will also realize savings of $14 million annually by FY 1991, and reduce our vulnerability to a potential loss of funds that might result from a breakdown in security.

2. Security

The need to protect and safeguard the Government's financial assets is fundamental. This effort will give the Service the capability to protect and properly safeguard the billions of dollars in assets it handles annually and minimize its vulnerability to fraud, waste and abuse. The Security Program is a vital ingredient to the full effectiveness of the Service's operations, especially those associated with our multi-billion dollar-a-day payment and collection activities. As the Service carries out its commitment to excellence in operations, there is a related obligation to provide an environment that properly safeguards financial systems and sensitive information.

3. Reform '88 Initiatives

Greater precision in the timing of payments, quality of loans, and faster collections can reduce Federal deficits without program cutbacks or increased taxes.

The first initiative will provide the Service with the staff needed to carry out rapidly expanding and comprehensive credit administration/debt collection programs in all agencies. The staff will develop Government standards for managing amounts due to the Government including guidance on the use of various tools and techniques to improve credit administration/debt collection and cash flow. A prototype debt collection system for agencies to follow will be developed. The Government will recover

approximately $497 million and savings of $120 million from FY 1990 to FY 1992 from the implementation of these standards and operating systems; and by providing additional personnel to assist agencies in identifying credit problems and implementing credit initiatives.

Another initiative will result in substantial cost saving by enabling agencies to perform liability analyses. (The Government's assets total $1.48 trillion.) It will permit agencies to conduct self-assessments of financial management. This effort will promote interagency sharing of successful financial management techniques and, when linked to the budget process, provide for a performance-oriented allocation of scarce resources among programs. We will replace the twenty-five year old Central Accounting System, the source for publishing the official Governmentwide budget results, by improving access to financial data for analysis as well as for publication.

Lastly this effort will ensure that the Government meets its daily financial commitments and will increase interest earnings to the Government by $6 million. The Service also will improve Cash Management Forecasting to provide more timely financial management data. This could generate a one-time savings of $55.3 million by FY 1991.

4. Direct Deposit Marketing With Check Inserts

This project will enable the Service to continue to promote Direct Deposit/Electronic Funds Transfer (DD/EFT) with the use of check inserts, one of our most effective advertising tools. Check inserts have resulted in as many as 450,000 sign-ups per month compared to an average monthly sign-up rate (months without inserts) of less than 50,000. Because the Service saves $.23 for each payment issued through Direct Deposit, a significant savings to the Government will be realized given the increased use of Direct Deposit.

5. Performance Improvement Programs

These programs support the Service's major goals of ensuring effective and efficient delivery systems for payments and collections. They also ensure that appropriate financial information is available to Federal policy-makers.

One program will permit the Service to convert from a costly leasing method of acquiring computer mass storage for the Check Archival and Retrieval Subsystem to a more cost beneficial purchase method. The estimated annual lease cost is approximately 50% of the one-time purchase cost (over $400 thousands). It will provide agencies and recipients of Federal payments, who rely on the Service for check services, with more responsive service on check claims.

This program will increase the productivity and performance of our personnel and computer hardware. We will extend office automation to the managerial and professional staff by establishing a "Service Bureau" for unusual processing needs and by providing direct support to the Regional Financial Centers. This effort will help ensure the availability and sharing of standard microcomputer hardware, software and support services within the Service. The Capacity Management/Performance Management Program will provide the Service with the means for expanding, measuring, evaluating and reporting on hardware systems performance and preventing or correcting performance problems on a day-to-day basis.

Summary

Reducing the Federal deficit is a major objective of this Administration and the Congress. The Service, as lead agency in cash management, credit administration/debt collection and financial management systems, supports this objective. Sound financial management is essential to reducing the deficit and that is our business.

The budget that we present to this Committee identifies our most pressing requirements. Our budget request of $270,004,000 and 2,306 average positions is an investment in sound financial management that will move the Federal Government closer to achieving a balanced budget. Our track record has been outstanding, and we want to build on our past successes.

Mr. Chairman, your continued support of our Service's programs is appreciated. I will be happy to answer any questions you may have.

STATEMENT OF GERALD MURPHY

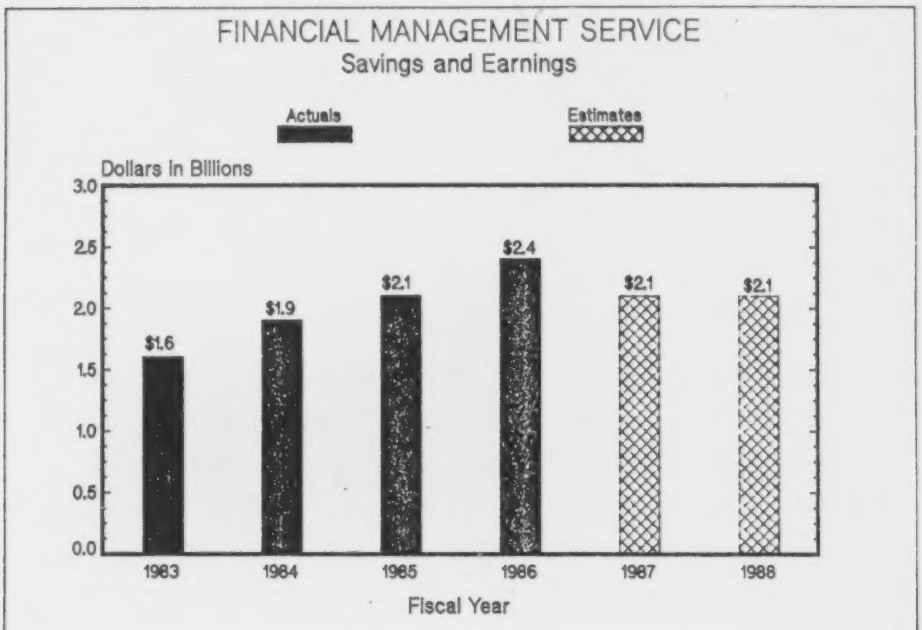
Good morning, Mr. Chairman and members of the Committee. I appreciate the opportunity to discuss the Fiscal Year 1988 resource requirements of the Financial Management Service.

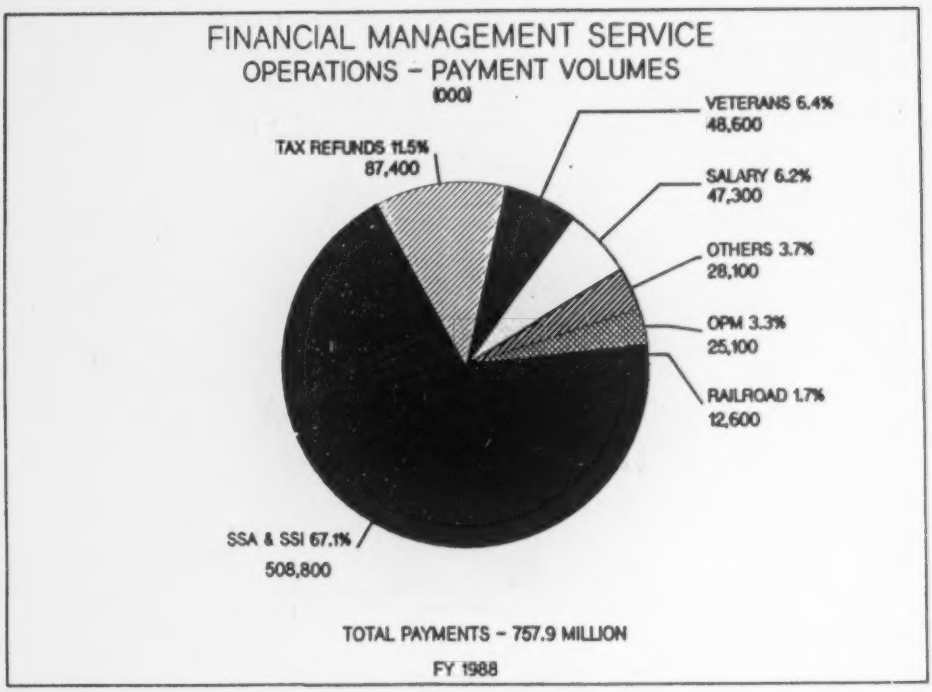
This request is necessary to fund vital improvements which are critical to meeting the Service's rapidly expanding responsibilities in Governmentwide financial management. For over three years the Service has had the lead agency responsibility for Governmentwide cash management. Our efforts have proven to be very effective and savings of $2.1 billion will be realized in FY 1988. In addition to our record of accomplishments in cash management, we have also been given the lead agency responsibility for improving credit administration and debt collection practices in the Federal Government, and more recently we took on the task of finding ways to bring about substantial improvements in agency financial management systems.

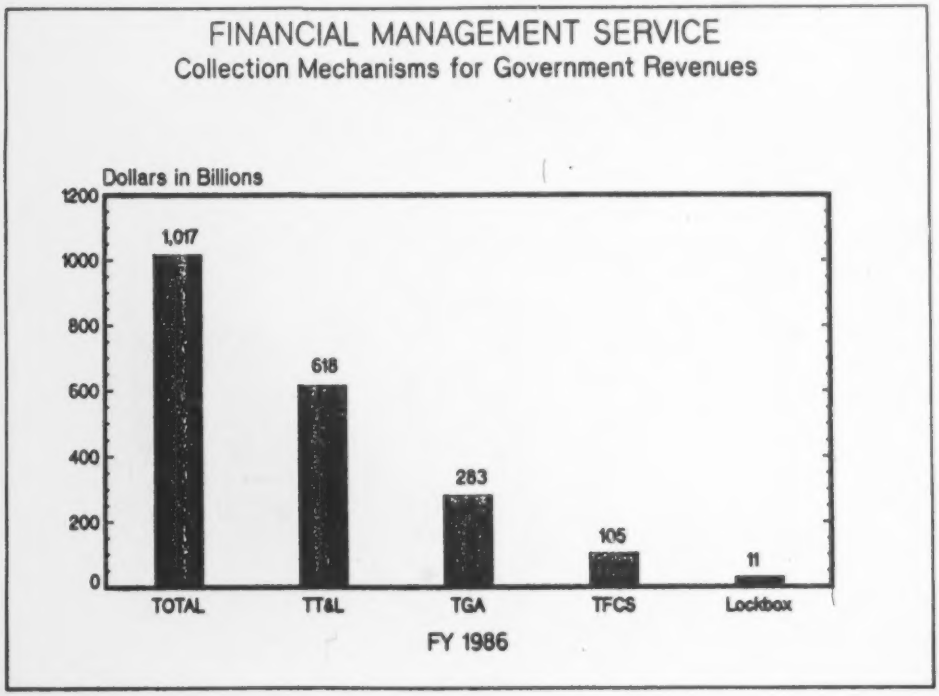
The Service is requesting $270,004,000 and 2,306 average positions for FY 1988. This request represents an increase of $25.4 million and 12 average positions over our Proposed Authorized Level for FY 1987 and $29.9 million and 12 average positions over our FY 1987 Continuing Resolution. Our resource request in FY 1988 will allow us to continue our systems modernization efforts; provide financial leadership within a framework of modern, secure and reliable systems; and continue to respond to our rapidly

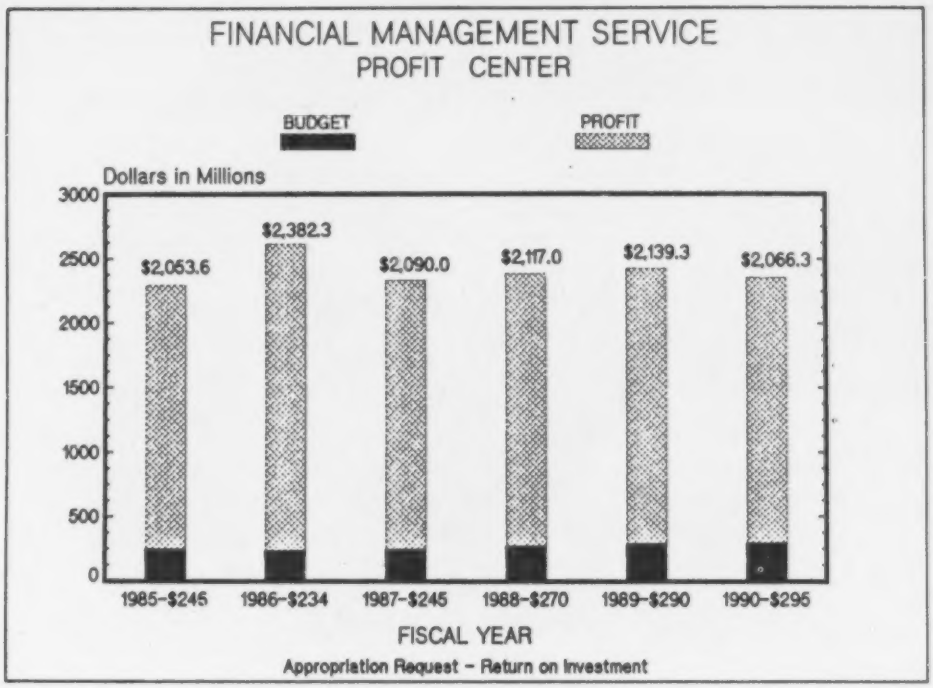
expanding responsibilities as the lead agency in the Federal Government for cash management, credit administration and financial management systems.

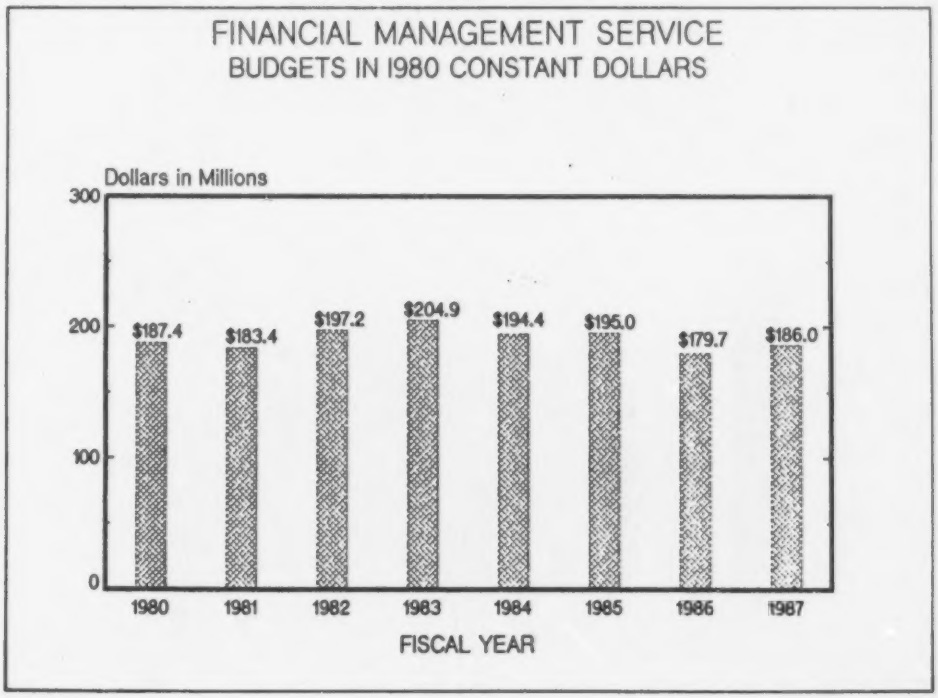
Mr. Chairman, that concludes my prepared statement. I would now like to turn to Commissioner Douglas who will give you a more complete picture of the Financial Management Service.

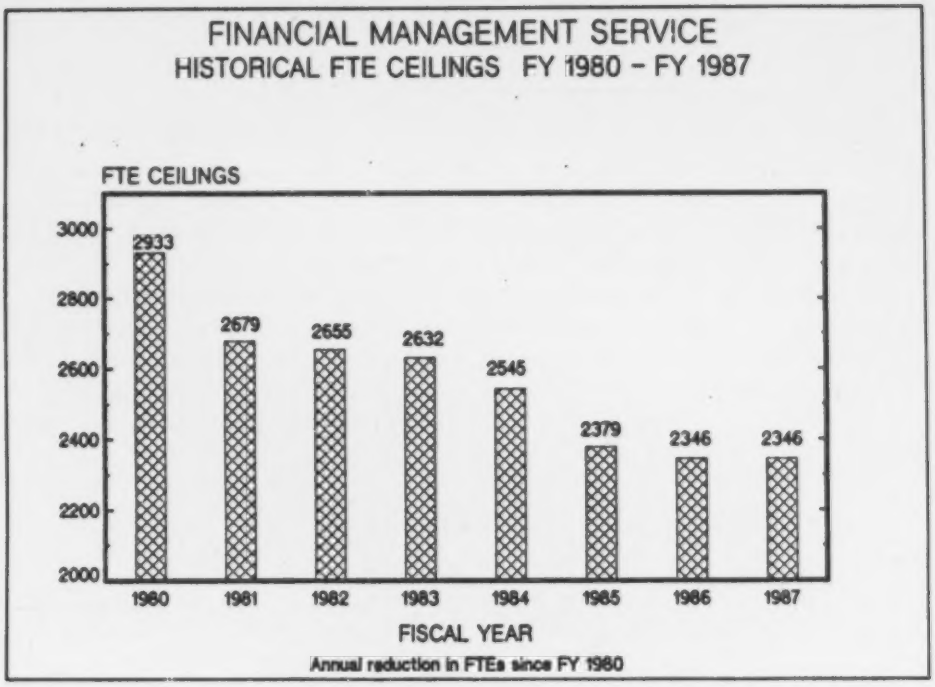


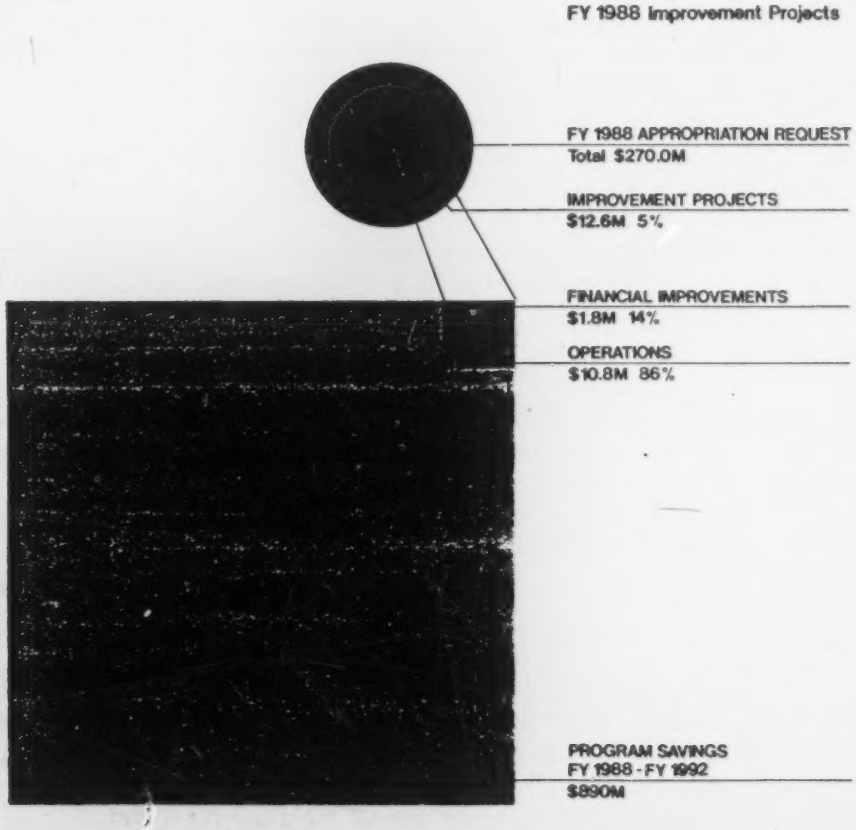

FINANCIAL MANAGEMENT SERVICE
OPERATIONS - PAYMENT VOLUMES
(000)
VETERANS 6.4%
48,600
SALARY 6.2%
47,300
OTHERS 3.7%
28,100
OPM 3.3%
25,100
RAILROAD 1.7%
12,600
TAX REFUNDS 11.5%
87,400
SSA & SSI 67.1%
508,800
TOTAL PAYMENTS - 757.9 MILLION
FY 1988


FINANCIAL MANAGEMENT SERVICE
Collection Mechanisms for Government Revenues
Dollars in Billions
1200
1000
800
600
400
200
0
1,017
618
283
105
11
TOTAL
TT&L
TGA
TFCS
Lockbox
FY 1986


FINANCIAL MANAGEMENT SERVICE
PROFIT CENTER
BUDGET
PROFIT
Dollars in Millions
3000
2500
2000
1500
1000
500
0
$2,053.6
$2,382.3
$2,090.0
$2,117.0
$2,139.3
$2,066.3
1985-$245
1986-$234
1987-$245
1988-$270
1989-$290
1990-$295
FISCAL YEAR
Appropriation Request - Return on Investment


FINANCIAL MANAGEMENT SERVICE
BUDGETS IN 1980 CONSTANT DOLLARS
Dollars in Millions
300
200
100
0
$187.4
$183.4
$197.2
$204.9
$194.4
$195.0
$179.7
$186.0
1980
1981
1982
1983
1984
1985
1986
1987
FISCAL YEAR


FINANCIAL MANAGEMENT SERVICE
HISTORICAL FTE CEILINGS FY 1980 - FY 1987
FTE CEILINGS
3000
2800
2600
2400
2200
2000
2933
2679
2655
2632
2545
2379
2346
2346
1980
1981
1982
1983
1984
1985
1986
1987
FISCAL YEAR
Annual reduction in FTEs since FY 1980


FY 1988 Improvement Projects
FY 1988 APPROPRIATION REQUEST
Total $270.0M
IMPROVEMENT PROJECTS
$12.6M 5%
FINANCIAL IMPROVEMENTS
$1.8M 14%
OPERATIONS
$10.8M 86%
PROGRAM SAVINGS
FY 1988 - FY 1992
$890M

SYSTEMS MODERNIZATION

Senator DECONCINI. Fine, thank you, Mr. Douglas.

Senator DOMENICI. Mr. Chairman, could I just ask one question?

Senator DECONCINI. Sure.

Senator DOMENICI. Mr. Douglas, when you go through this whole generalization of making money for the Government, just give me a couple of examples of how you do that. I mean, I hope nobody thinks you are imposing taxes on people. Is this just modernizing the system so that we maximize what we are entitled to get; is that right?

Mr. DOUGLAS. It is two big areas. One is the systems modernization, or putting in systems where none exist. I mean, Government is not in the forefront of using technology in the civilian agencies for efficient operations. And so that is part of it. That is the prime reason why we are able to have reductions in our staffing and yet still do more. Essentially it is doing more with less.

LEAD AGENCY ROLE

On the other side, there are our financial initiatives. We have worked since fiscal year 1983 as the lead agency in cash management in Government. OMB has designated us for that role. This past year we have also gotten the responsibility to be the lead agency in credit and debt collection, and I think Senator D'Amato has a particular interest in that area.

We work with Government agencies to ensure that they are using the best techniques of the private sector, in cash management, for example. I spoke about the lock boxes, about using techniques to ensure that we analyze all the major streams of either payments or collections by Government agencies—that is the cash flow of those agencies—and to make sure that we are making the payments when they should be made, timely but not prematurely.

GAO estimated about 4 years ago that Government agencies were prematurely paying their bills to the tune of about $400 to $600 million in lost interest by early payments. They also were paying a lot of them late, incidentally, which is what prompted the Prompt Payment Act. But they did not have their payment systems under control. So sometimes they paid early; sometimes they paid late. If you do not manage it one way, then you do not manage it the other way either, and it becomes accidental if it is done correctly.

Senator DECONCINI. Mr. Douglas, along that line, are you satisfied that we are getting the maximum return on those dollars in all of these banks due to the float and transfer? Or can that be improved?

TREASURY TAX AND LOAN SYSTEM

Mr. DOUGLAS. Well, we constantly monitor that. Now, the Treasury Tax and Loan System, Mr. Chairman, is the one where we said over $600 billion in revenue comes through that system. At the present time, under the way that system is constituted, banks have 1 day use of that money. In other words, they have the use of the float for 1 day.

The system is not a good one. It is paper based. It is manual. It is labor intensive. IRS has great difficulties crediting the accounts of the businesses with their Federal tax deposits, doing that timely. From time to time they have problems where they send notices out and people complain, "I have already paid that."

We want to change that system and we have brought together a group of people, including people from the private sector, to look at that. We have the beginnings of some ideas, an entirely new concept, to use electronics, to use technology, and as a result of that, we would also take that 1 day of float out of the system. So earnings to the taxpayers and to the Government would increase, and at the same time we would have a much more efficient and effective method of collecting taxes.

Senator DECONCINI. Are the banks paid a fee for this, in addition to the float they get?

Mr. DOUGLAS. Yes, sir; in addition to that fee they are paid 50 cents per transaction.

Senator DECONCINI. Nobody speaks out stronger for eliminating the deficit than the banks, at least in my State. And they are good solid citizens, but I wonder if they would not be willing to give up that float?

Mr. DOUGLAS. Well, we have done some informal discussions with representatives of the American Banking Association as well as with the Federal Reserve and businesses. We have brought in representative of businesses and everyone agrees that the present system can be improved.

Senator DECONCINI. Are you very optimistic that you are going to get to that during 1987 or 1988?

Mr. DOUGLAS. Well, this is a little premature, because I have not fully cleared it with my bosses over at the Treasury Department, other than to say we are working on it, to give them some idea of where we are headed. But I think that the benefits to all of the parties are so great that people will see the logic and reason for a new system.

THE $30 MILLION INCREASE

Senator DECONCINI. You are asking, Mr. Douglas, for a $30 million increase. If we appropriate that to you, are you going to return $300 million more, or close to it?

Mr. DOUGLAS. I will give you the precise figures for fiscal years 1988, 1989, 1990. But yes, sir, we will produce somewhere between $200 and $300 additional million of savings or earnings per year to the Government. I showed you what $12.6 million would return in my opening presentation.

Senator DECONCINI. Maybe the Senator on the Budget Committee will give us credit for that.

Senator DOMENICI. We will try. Everybody wants credit.

Senator DECONCINI. Mr. Douglas, obviously there is a maximum. What if we give you $50 million? Will you come up close to $500 million? What if we give you a $100 million? Will you come up with $1 billion?

Mr. DOUGLAS. Well, I am sure that the chairman is aware that I am constrained in my reaction to your question by the rules of the game.

Senator DECONCINI. Well, I know there is some cutoff. We get that from IRS, too, and it shows that if you invest some of that in enforcement and auditing, you get more. Where is the break off?

Mr. DOUGLAS. Certainly there is a point of diminishing returns. There is no question about that.

Senator DECONCINI. Do you know where that is? Do you have any idea?

Mr. DOUGLAS. I would say that that is several years out for us.

Senator DECONCINI. You mean it will be several years before you would know that.

Mr. DOUGLAS. Yes; but we are in no danger of hitting the outermost point of benefits by improved financial management in Government. I do not want to say that it is a virgin field, but it is——

Senator DECONCINI. I do not mean to be sarcastic, but you are asking for $30 million. If the committee said, here is $50 million, what would you project? Or maybe you would like to get back to us on what the return would be?

Mr. MURPHY. There certainly are, Mr. Chairman, a lot of areas that can be improved. I think the restraint is really on how many new initiatives we can effectively manage.

Senator DECONCINI. I see.

Mr. MURPHY. And I think our budget this year——

Senator DECONCINI. Is as much as you can digest?

Mr. MURPHY [continuing]. Is a very ambitious effort when we are taking over new responsibilities for credit management and debt collection, operational responsibilities, and also financial management systems. We have a lot on our plate, and Mr. Douglas is doing an excellent job.

Senator DECONCINI. And you think that is as much as you would want to take?

Mr. MURPHY. I think this is an effective presentation and we will accomplish what we have set out in here.

Senator DECONCINI. Now, if you get the $12.6 million, Mr. Douglas, as you pointed out, that is going to return $800 and something million in 5 years? What if you get that and you do not get the balance of the $30 million?

Mr. DOUGLAS. Well, the balance of that sir, primarily falls into two categories, what is called maintaining the current level. Really, it is inflation, it is adjustments for increased costs——

Senator DECONCINI. Pay raises.

Mr. DOUGLAS. Yes; and the other portion of it is the new Federal retirement system and pay raise.

Senator DECONCINI. So only $12.6 million, or whatever it is, is actually new systems and——

Mr. DOUGLAS. That is right, and new initiatives. The rest of it is really maintaining the current level and making the adjustment for the new retirement system.

SOCIAL SECURITY TRUST FUND REIMBURSEMENT

Senator DECONCINI. OK. In the last Congress, an amendment was introduced to the Debt Ceiling Act which would have enabled the Social Security trust fund to directly reimburse the Financial Management Service for the cost of processing their benefit payments. I understand Senator Domenici supported that amendment. The amendment was approved in the Senate but dropped in the conference.

Had this amendment been enacted into law, it was my understanding that it would have saved the Financial Management Service about $90 million in direct appropriations. Is that correct, and are there plans within the administration to support similar legislation?

Mr. DOUGLAS. Your figure is essentially correct, Mr. Chairman. It varies from year to year because we perform a variety of services. The most important, of course, is the payment process for the Social Security Administration. As I said, we make over 500 million payments for them each year and we charge the Social Security trust fund for the cost of those services. But the money does not come to us. The money goes into the general revenue stream of the Treasury.

If that direct reimbursement initiative had become law, then our appropriation request to you that I am talking about today would have been reduced by approximately $90 million, and would be each year.

Senator DECONCINI. I will submit a number of questions. I will just ask you one more, and you can respond to the other subcommittee members.

SYSTEM 90

By far your biggest program increase for 1988 is $6.8 million to continue your system 90 financial operations systems integrity program. This program is designed to assure the security and effectiveness of the Service's payment systems for the 1990's. What will be the total cost of this capital investment and when will we begin to realize the savings projected for the system 90 project?

Mr. DOUGLAS. System 90 is essentially our title for replacing the computer systems in our seven financial centers across the country. The particular computer hardware, software, those systems are all mid-1970's technology and they need to be replaced. There are definite benefits from the standpoint of security, because of the large sums of money we handle. But we also are talking about obsolete computer systems. Given the fact that we are making over 700 million payments a year, it is essential that we have a reliable system that we can depend on.

The first-year cost that we have asked for is a little less than $7 million—$6.8 million. We want to phase this system in over 3 years. We do not want to try to force it into 1 year and perhaps have some kind of a disaster that would really be catastrophic. The second year the cost would probably be on the order of, I would estimate, around $15 or $16 million. The third year of that cycle would be much less, probably $6 or $7 million.

Senator DECONCINI. When do you realize the benefits?

Mr. DOUGLAS. We start realizing benefits after the system is installed over fiscal years 1988, 1989, 1990. So we start getting benefits in fiscal ytears 1990, 1991. Savings are approximately $14 million a year.

Senator DECONCINI. A year, thereafter, for how long?

Mr. DOUGLAS. For as long as the system is in existence. So you recapture your investment in about 2 years and a few months. But that is not the prime reason. We are not doing this just because it makes money. We are doing it because we need to do it. It is an essential system.

Senator DECONCINI. I understand. I will submit the balance of my questions.

The Senator from New Mexico.

Senator DOMENICI. Mr. Chairman, I have a number of questions but I think I am going to submit them.

BUDGETARY PROCESS

Just a general observation, first, Mr. Douglas, not only after hearing you here today, but in talking with you in my office about your role and the entire system that you manage—let me just suggest one of the problems we have as a quirk of the budgetary process. This subcommittee will get assigned a number of dollars to spend and in essence—and I hate to say it this way—but really, it does not matter to this committee, with all of the demands, whether it spends it on an item that produces revenues in another agency or for the General Treasury or not.

I mean, you have more demands than you have money. And it seems that we have to find some way to work out an accommodation when there is such an enormous return.

Senator DECONCINI. I agree.

Senator DOMENICI. If $12.6 million returns an enormous amount of money, one could say, well that is why you are here, just do that. But no one understands that at the same time we have all the other line-item agencies that are trying to do their job, and it is very difficult. We almost did not get the extra IRS agents, as you know, Mr. Secretary, because of the problem that I am discussing right here.

We did a manipulated reconciliation accommodation that got it, but we are going to be back in a bind in terms of accommodating all of those agents in this subcommittee's money.

Senator DECONCINI. You are right.

Senator DOMENICI. Could I ask, do you have an ongoing management team from outside of the Government that looks with you at your overall systems and evaluates the next and the next generation of equipment and where you are going and where you have been, and that kind of thing, Mr. Douglas?

Mr. DOUGLAS. Yes, Senator; about 4 or 5 years ago, in fact, we brought in a group of people that we call the blue ribbon panel, to look at the Financial Management Service, to look at where we were, what our problems were, what we ought to be doing, and to assure us that the things that we were trying to do were the correct things or to suggest other things.

We use something called strategic planning in FMS, and we do it very much like the private sector does it. We look at what businesses we ought to be in. We look at where the need is. We look at what actions we should take. And that is an ongoing scrutiny. Year after year we do that.

We bring in outside consultants from time to time to look at particular features to see whether what we are doing makes sense or whether there is a better way of doing it. So we have a rigorous examination of how we spend money, where we put our priorities, and where we put our time and effort.

DIRECT DEPOSIT

Senator DOMENICI. Only one question, just by way of explanation, in your testimony you state that you have been successful in promoting direct deposit electronic fund transfers?

Mr. DOUGLAS. Yes, sir.

Senator DOMENICI. I assume a lot of people would be shocked to know that our Federal Government started that very late in the game, as compared with the private sector. But we are, through your agency, on it. You indicated that the service saves 23 cents for each payment issued through direct deposit. Maybe you could give it to us another way.

What is the cost of mailing a check versus a direct deposit?

Mr. DOUGLAS. Well, to produce and mail a check to a recipient is 26 cents.

Senator DOMENICI. Twenty-six?

Mr. DOUGLAS. Twenty-six cents. To produce and deliver a direct deposit payment into the bank account of that same recipient is 3 cents. It is 23 cents difference savings. But beyond that, it is a lot safer, it is a lot more secure, it is a lot more dependable. Every year we deal with something close to 100,000 cases of people who have lost or had their checks stolen and they have been forged and cashed, and it takes long investigations before——

Senator DECONCINI. Pete, would you yield? Does that include notifying the recipient that it has been transferred, or is that just the transfer?

Mr. DOUGLAS. The 3 cents is to get the money into the bank account.

Senator DECONCINI. And then it is up to the bank to transfer it?

Mr. DOUGLAS. Yes; different banks have different ways. Some send a little slip——

Senator DECONCINI. But you do not have to absorb any cost of the notification?

Mr. DOUGLAS. No; that is correct. Incidentally for fiscal year 1988, we will have about 300 million direct deposit payments. If we did not have that program, if we were not saving that 23 cents per transaction, I would not be asking you for $270 million, I would have to be asking you for $340 million. That is what we would need to make those payments.

Senator D'AMATO. Would you charge back that 23 cents then, eventually, through to the Social Security trust fund?

Mr. DOUGLAS. No; the Social Security trust fund is the beneficiary of that savings, Senator.

Senator D'AMATO. So we are paying for it, in essence, is what you are saying?

Mr. DOUGLAS. No; no one is paying for it. It is a true savings.

Senator D'AMATO. No; I understand. I understand when you are saving it. What I am saying is where does the revenue come from. We appropriate those dollars that you send out that check with, that 26 cents——

Mr. DOUGLAS. Yes.

Senator D'AMATO [continuing]. That your overall cost is; is that correct?

Mr. DOUGLAS. That is correct.

Mr. MURPHY. The savings are reflected in the FMS appropriation.

Senator DOMENICI. In other words, it lets you say, here is a Social Security check. If we did not have this direct deposit—they do the work for Social Security and charge Social Security.

Senator D'AMATO. Charge Social Security.

Senator DOMENICI. He just told us he would be charging them 26 cents. Now it is only going to cost them 3 cents.

Mr. DOUGLAS. Which means that from that volume, the trust—of course, all of those payments are not Social Security. The vast majority are, however.

Senator D'AMATO. Have you ever—if I might?

Senator DECONCINI. Go ahead.

DIRECT DEPOSIT PARTICIPATION

Senator D'AMATO. Have you ever made a study as to what you believe the potential is? How many you could actually have transferred by wire into accounts?

Mr. DOUGLAS. Yes; we have. Our estimate is somewhere between 60 and 80 percent of the payments, Senator.

Senator D'AMATO. And right now you are doing what percent?

Mr. DOUGLAS. It varies. For recurring benefit payments, Social Security, veterans, railroad retirement, Government employee retirement, it is about 43 percent.

Senator D'AMATO. So you are at about the halfway mark?

Mr. DOUGLAS. About the halfway mark.

Senator DOMENICI. Mr. Chairman, might I ask one more question?

Senator DECONCINI. You bet.

SOCIAL SECURITY PAYMENTS AND SEQUESTRATION

Senator DOMENICI. With reference to Social Security, we had that really wild problem when we had a sequester. Nobody understood what you did, and as a consequence the first go around you had to dramatically reduce all of your other activities because you could not sequester against that portion of your account that comes from Social Security.

I think we finally got it understood on the floor. I think it was Pete Wilson took the lead, and we finally got it understood. But refresh my recollection, did we permanently change Gramm-Rudman for that, or did we just one-shot it?

Mr. DOUGLAS. The amendment, as I understood it, Senator, would allow direct reimbursement to the Financial Management Service by the Social Security trust fund for all the services continuing. It was not a 1-year arrangement.

Mr. ROGERS. But FMS did have to take the cut out of the operating programs and not out of the postage category.

Senator DOMENICI. Yes, once.

Mr. ROGERS. One time, yes.

Senator DOMENICI. But is that fixed now, Mr. Secretary, in permanent law?

Mr. ROGERS. No; it is not.

Senator DOMENICI. We have got to fix that.

Mr. ROGERS. In discussions with OMB we submitted an appropriation to actually break it out so everyone would see postage separately. This was not accepted during the negotiations, but you asked earlier—Senator DeConcini asked earlier whether we supported the idea of having Social Security paid directly not to the general fund but to FMS, and the Department does support that idea.

Senator DOMENICI. Well, we can fix it in any number of ways. We have Gramm-Rudman-Hollings hanging around for May 15. We could put in there just by description that that is not subject to sequester unless sequestered out of the Social Security. That would solve your problem. And we are not going to sequester—we are sequestering Social Security administrative functions, and they just have to make a decision. And they, obviously, would pay you in full because they have got to mail the checks. They would have to cut their other personnel.

Mr. ROGERS. Right.

Senator DECONCINI. We could do that here, if you want.

Senator DOMENICI. We might be able to do it here, yes.

Senator DECONCINI. The Senator from New York.

Senator D'AMATO. Mr. Chairman, I have no questions at this time, but I would like to submit for the record some questions relating to debt collection, what your responsibility is, how you are handling them, what potential you see. But I do not want to take the time now.

Mr. Douglas, maybe we would have an opportunity to spend a few minutes together to review that.

Mr. DOUGLAS. Certainly.

Senator D'AMATO. I would be most interested.

Senator DECONCINI. Thank you, Senator. I also have some questions on that matter to submit for the record. Thank you, Mr. Douglas.

Senator DOMENICI. Mr. Chairman, could I just ask one question on that issue you just raised?

Senator DECONCINI. Sure.

DEBT COLLECTION

Senator DOMENICI. I thought it was going to get asked and I do not think it was. Is not your program only a pilot program in terms of IRS refunds and deducting amounts owed by the taxpayer against refunds?

Mr. DOUGLAS. Our activities in debt collection are more broad than that one particular offset program, Senator, but in regard to that, that is correct. The Congress authorized a 2-year pilot program to see how that would work. In the first year the total collections under that program were about $195 million. Roughly $150 million of it were direct offsets from refunds and about $44 or $45 million, people—with quotes around the word—voluntarily paid the amounts when they heard about the offset program. So the total was about $195 million.

I just looked at some figures the other day. In the first two or three cycles of offsets this year they have already offset about $15 million. But that program will expire at the end of this tax year, unless it is extended by the Congress.

Mr. ROGERS. We are going to propose legislation to extend the program. We are very happy with it.

Senator DOMENICI. Anybody angry at the program? I mean, organized groups?

Mr. ROGERS. No; the only question that has ever been brought up about it is its possible effects on other voluntary compliance within the IRS, but we have seen no discernible evidence of that.

Senator DECONCINI. I am glad you asked that, Senator Domenici.

BUREAU OF THE PUBLIC DEBT

Mr. Gregg, you are our next witness, the Commissioner of the Bureau of the Public Debt. You will be testifying on your 1988 budget. I understand that you will also handle the testimony for the Savings Bond Division; is that correct?

Mr. GREGG. It is included in our general appropriation, but Mr. Speers is here and he can answer the questions on that.

Senator DECONCINI. OK. Mr. Gregg, you go ahead and summarize; we will then let Mr. Speers summarize; and then we will go to questions.

Mr. GREGG. The fiscal year 1988 request for the Bureau of the Public Debt is $221,572,000 and 1,926 average positions. This represents an increase of $41,166,000 but a decrease of 104 average positions. The major item of increase in this budget is $37,324,000 to cover the cost of work performed by the Federal Reserve Banks acting as our fiscal agents.

This increase is necessary to restore funds omitted from the 1987 budget because that budget assumed the passage of legislation which would allow Treasury to partially reimburse Federal Reserve Banks from fees collected from investors in Treasury securities. Our 1987 budget was reduced to reflect the fees that would be collected under the proposed legislation.

The 1988 budget takes an entirely different approach. Rather than reducing the budget request in anticipation of legislation, the 1988 budget reflects full funding for the Federal Reserve Banks. If the proposed fee legislation is enacted and implemented, part of the funding for the Federal Reserve Banks would come from the collected fees. The balance of the reimbursement would come from our regular appropriations.

The Department is currently developing the proposed legislation to implement this approach. Our 1988 budget request and approach is consistent with an agreement between Treasury and the Office of Management and Budget that the Federal Reserve Banks shall be fully compensated for the work that they do on our behalf.

PREPARED STATEMENT

This concludes my summary statement. I will be happy to answer any questions, Mr. Chairman.

[The statement follows:]

STATEMENT OF RICHARD L. GREGG

Introduction

Mr. Chairman and members of the Committee, I appreciate this opportunity, my first as Commissioner of the Public Debt, to discuss with you our Fiscal Year 1988 Appropriation Request for "Administering the Public Debt."

This Appropriation Request provides funds for both the Bureau of the Public Debt and the U.S. Savings Bonds Division. The latter is a separate organization responsible for promoting the sale of savings bonds. The requirements of the Savings Bonds Division will be discussed separately.

FY 1988 Appropriation Request

The total Appropriation Request for "Administering the Public Debt" in Fiscal Year 1988 is $241.4 million. This represents a net increase of $42.9 million over the amount available for Fiscal Year 1987.

Of this amount, the Bureau of the Public Debt is requesting $221,572,000 and 1,926 average positions, an increase of $41,166,000 but a decrease of 104 average positions. For the most part, the increase in funding is needed so that we can reimburse our agents for work performed. The reduction in the number of average positions is the net of 15 additional average positions required for higher workloads in the savings bond program and a reduction of 119 average positions saved as a result of the implementation of TREASURY DIRECT.

Federal Reserve Bank Requirements

Our Fiscal Year 1988 budget request includes an increase of $37,324,000 over FY 1987 funding for reimbursements to the Federal Reserve Banks in support of their activities as the Bureau's fiscal agents.

The policy and practice of the Bureau for many years has been to fully reimburse the Federal Reserve Banks for the work that they do on our behalf. The services that they provide are essential to our mission accomplishment and, in many cases, this is work that would otherwise have to be accomplished by Bureau personnel. This ability to reimburse the Banks for the costs incurred in direct support of this Bureau's programs is an important element of our principal-agent relationship.

Unfortunately, the Bureau's appropriation for Fiscal Year 1987 provides for only about one-half the needed funds to fully reimburse the Banks. The primary reason for the 1987 shortfall was because the budget assumed the passage of legislation which would allow Treasury to partially reimburse Federal Reserve Banks from fees collected from investors in Treasury securities. Our 1987 budget request was reduced to reflect the fees that would be collected under such legislation.

The budget for 1988 takes an entirely different approach. Rather than reducing the budget request in anticipation of legislation, the 1988 budget reflects full funding for the Federal Reserve Banks. If the proposed fee legislation is enacted and implemented, the appropriated budget authority for Federal Reserve Bank reimbursements would be the same as requested under existing legislation, but would be partially derived from a special fund for the collected fees. The balance of the reimbursement would be paid out of budget authority from the general fund. The Department is currently developing proposed legislation to implement this approach.

This budget request and approach is consistent with a policy agreement between Treasury and the Office of Management and Budget that the Federal Reserve Banks should be fully compensated for the work that they do at the Bureau's request and under our direction.

Savings Bond Program

The Bureau is requesting funding for increased workload in the savings bond program. Projected workloads associated with increased savings bond sales for Fiscal Year 1988 are higher than the workloads estimated for FY 1987 and will cause unavoidable cost increases.

A total of 15 positions and $3.1 million is needed to process this work. The increase is required for postage, payment of additional volume-related fees to the issuing and paying agents of savings bonds and processing the increased workload by Bureau staff.

In order to keep these budget increases to a minimum and to reduce our sensitivity to uncontrollable increases in processing workload, the Bureau continues to implement processing efficiencies. Recently we adopted higher speed technologies such as optical character and magnetic ink recognition for processing

U.S. Savings Bonds. As a result of each such improvement, our processing capacity becomes somewhat more insensitive to unanticipated increases in the sales of savings bonds.

Marketable Securities Program

The Bureau completed the implementation of our new account maintenance system, TREASURY DIRECT, in July 1986. To date, investors have been generally very receptive to the features of this new system that maintains accounts for holders of marketable Treasury securities who invest directly with the Department. More than 100,000 accounts and $1.3 billion are currently in the system and following the conversion of our existing Treasury bill investors into the system later this year, the number of accounts will exceed one million.

TREASURY DIRECT was developed jointly by the Bureau and the Federal Reserve. It is a modern, highly automated system that allows us to provide excellent service to customers and includes features, for example, that permit payments to be made electronically to a bank account designated by the customer and allow investors to receive information about their accounts and process transactions throughout the country instead of just at the Bureau offices in Washington. Implementation of full book entry, and TREASURY DIRECT will eventually reduce Bureau employment by 360 people and produce cumulative savings of $46 million over seven years. This budget request includes savings of 119 positions and $2.9 million as a direct result of this initiative.

Technological Improvements

The Bureau has made significant progress in acquiring and using modern technology to perform its mission. A central feature of our recent information systems planning is the replacement of our outdated mainframe computer. This replacement equipment, much of which has already been acquired, will supply a solid technological base for satisfying our future data processing needs and for establishing and refining a much needed telecommunications connection with the Federal Reserve System. Specific savings bond and public debt accounting projects are already underway which will effectively use this equipment and the new capabilities.

In summary, the total Bureau request of $221.6 million and 1,926 work-years in FY 1988 will permit the Bureau to process

budgeted workloads timely, to improve service to investors, and to fully reimburse the Federal Reserve Banks for their services.

Mr. Chairman, this concludes my prepared remarks. We will be glad to answer any questions that you and the members of your committee may have.

U.S. Savings Bonds Division

Senator DeConcini. Thank you, Mr. Gregg. Mr. Speers, would you summarize your statement, and we will put the full statement in the record.

Mr. Speers. Thank you very much, Mr. Chairman. The mission of the U.S. Savings Bonds Division is to increase the sale and the retention of savings bonds. The Savings Bonds Program plays a positive role in the reduction of the national debt. Savings bonds reduce Government outlays by lowering the net interest costs that the Government needs to pay for its borrowing. In addition, the Savings Bonds Program provides at competitive rates a safe and effective means for millions of Americans to save and broadens public ownership of the national debt.

SAVINGS BONDS SALES

The Division promotes sales in both the payroll savings and over-the-counter markets. Fiscal year 1986 was tremendously successful for the bond program. Sales reached $8.3 billion, and the total amount of bonds outstanding rose to more than $87 billion. Our over-the-counter sales climbed to 69 percent of the total, with payroll savings making up the remainder.

Sales continue to be strong in the current fiscal year. As of the end of January sales totaled $5.6 billion, 191 percent over sales at the same point last year. Sales for the month of November 1986 reached the highest levels of any month in the entire history of the program. The Treasury in that month alone sold 2.72 billion dollars' worth of bonds. Currently over $93 billion of savings bonds are held by the American public, another historical high.

FISCAL YEAR 1988 BUDGET REQUEST

To continue this progress in fiscal year 1988 the Division is requesting a total budget of $19,854,000 and 273 FTE positions. This budget will fund a field sales force to carry out promotional activities and will continue the development and distribution of public service advertising materials to increase public awareness.

The 1988 budget request is an increase of $1,696,000 over the authorized fiscal year 1987 level, with no increase in FTE positions. This request will allow us to continue our basic operations as well as implement an automated management information system. The system will increase the cost effectiveness of the Division by reducing sales staff paperwork, increasing promotional calls, and enhancing headquarters campaign planning.

PREPARED STATEMENT

Mr. Chairman, that is a summary, and I will be happy to answer any questions.

[The statement follows:]

STATEMENT OF JERROLD B. SPEERS

Mr. Chairman and members of the Committee, I am pleased to be here today to present the fiscal year 1988 budget request for the United States Savings Bonds Division.

The mission of the U. S. Savings Bonds Division is to increase the sale and retention of Savings Bonds. The Savings Bonds Program plays a positive role in the reduction of the National debt. Savings Bonds reduce Government outlays by lowering the net interest costs the Government needs to pay for its borrowing. In addition, the Savings Bonds program provides, at competitive rates, a safe and effective means for millions of Americans to save, and broadens public ownership of the National debt.

Since its inception, the Savings Bonds Program has demonstrated its value to the government and the public. From 1941 to 1986, the public has purchased over $245 billion worth of Savings Bonds at issue price. For many wage earners it has been the primary method of saving, and for the government it has been a stable source of financing the public debt.

The Savings Bonds Program is fortunate because much of its success is due to volunteer support. Active national and local volunteer committees perform vital and outstanding services for the Division in the fields of banking, media, labor and industry. The efforts of the Division's field personnel are multiplied through the directed activities of our volunteers.

The Division promotes sales in both the payroll savings and over-the-counter markets. Fiscal Year 1986 was tremendously successful for the Bond program. Sales reached $8.3 billion, and the total amount of Bonds outstanding rose to more than $87

billion. Our over-the counter sales climbed to 69% of the total, with payroll savings comprising the remainder.

Sales continue to be strong in the current fiscal year. As of the end of January, sales totaled $5.6 billion, 191% over sales at the same point last year. Sales for the month of November 1986 reached the highest levels of any month in the entire history of the Savings Bonds Program. The Treasury in that month alone sold $2.72 billion worth of Bonds. Currently, over $93 billion of Savings Bonds are held by the American public, another historical high.

To continue this progress in fiscal year 1988, the Division is requesting a total budget of $19,854,000 and 273 FTE positions. This is an increase of $1,696,000 over the authorized fiscal year 1987 level with no increase in FTE positions. This request consists of $865,000 for program enhancements, and $1,150,000 for increases necessary to maintain current levels, offset by decreases of $319,000.

The 1988 budget request will fund a field sales force to carry out promotional activities and will continue to increase public awareness through the development and distribution of public service advertising materials.

In addition to the basic operations, the Division's major initiative in fiscal year 1988 will be to implement a Management Information System. This system is expected to increase the cost effectiveness of the Division through the reduction of paperwork for sales promotion staff, thereby allowing increased numbers of sales calls. Additionally, automated communications will increase efficiency by providing timely data on campaign progress. The Management Information System will also enhance

the data collection ability of headquarters enabling it to better plan future campaigns.

During fiscal year 1988 the Division will continue to devote most of its resources to promotional activities in the most productive areas. Our objectives will be to continue to increase both over-the-counter and payroll savings sales, and to make the most cost effective use of existing staff and volunteer resources.

We will encourage more publications and broadcast stations to use the public service advertising created by our advertising agency to reinforce public awareness of the benefits and features of Savings Bonds. Once the public is made aware of these features and benefits, sales increase.

Mr. Chairman and members of the Committee, this concludes my statement. We will be happy to answer any questions that you or members of the committee may have.

INTEREST RATE

Senator DECONCINI. When did the rate go down on the bonds, Mr. Speers?

Mr. SPEERS. The guaranteed minimum rate went down on November 1 from 7½ percent to 6 percent.

Senator DECONCINI. And have you seen a dropoff since then?

Mr. SPEERS. Actually, no. We have seen an increase in sales, and we think that that is due to the amount of publicity the program has received, due to the decrease in the interest rate. We feel that as the public becomes aware of the features of the savings bonds they become more interested and buy more.

Senator DECONCINI. If we drop it some more, you may get some more business?

Mr. SPEERS. I certainly would not want to say that.

Senator DOMENICI. That is supply side economics.

Senator DECONCINI. We have been through that, have we not?

The total request for the Bureau of the Public Debt is $241,426,000 for fiscal year 1988, an increase of $42.9 million. The President has not provided you with any supplemental request for 1987, and according to the Congressional Budget Office, your funding level for fiscal year 1988

at the CBO baseline would be $211 million. This includes a small amount of inflation relief.

What would be the effects on your operation if we were to adhere to the CBO baseline level for fiscal year 1988 rather than give you the President's budget request.

FRB REIMBURSEMENTS

Mr. GREGG. The large amount of the increase that we are asking for—$37.3 million—is to really restore funds that were taken out of the fiscal 1987 budget for us to reimburse the Federal Reserve Banks. It is not new work that they are doing. Essentially it was because of the approach that was taken in 1987 which anticipated the passage of the legislation by which we could partially pay the Federal Reserve Banks from fees that they collected from the investment in Treasury securities. Now, that legislation is going to be proposed, but it has not yet been submitted.

Senator DECONCINI. Are we mandated to pay that? They are a Government agency that makes money so why can't they absorb it?

Mr. GREGG. There is not a law that actually says that we have to pay the Federal Reserve Banks. It has been a longstanding policy and practice of the Bureau of the Public Debt to reimburse them.

The Bureau has relied on the Federal Reserve Banks as fiscal agents, to conduct a wide range of public debt activities for a period of some 70 years. The relationship has been extremely effective in providing service to investors that is both efficient and economical, with the Bureau, as the principal, providing the direction and control. The Bureau reimburses the Federal Reserve Banks, under authority provided in section 31 of the United States Code, for all fiscal services performed. Reimbursement formalizes the principal-agent relationship, ensures the proper review of all phases of the function through the appropriation process, and provides a sound basis of accounting for the full cost of administering the debt. I think it is the right approach—it is the right business approach—to pay for the work that is being done on your behalf.

Beyond that, if we do not fully reimburse them, I think it weakens the principal agent relationship that we have with the Federal Reserve Banks.

The Federal Reserve Banks should be reimbursed for the work they perform as fiscal agents.

There is currently an effective reciprocal working relationship between the FRB's and the Bureau, with the ultimate decisions reserved to the principal. Changing the reimbursement policy could damage this relationship and affect the Bureau's ability to carry out its mission in support of debt management policies.

Senator DECONCINI. Are they uptight because you did not pay them last year?

Mr. GREGG. Yes; I think that is an accurate summary of their feeling.

Senator DECONCINI. Even though they have got a substantial amount of income that they do not spend?

Mr. GREGG. And which, in fact, they return to Treasury. But the Federal Reserve—and Chairman Volcker—is very concerned. And it has had a negative impact on the banks. First of all, in the individual Federal Reserve Bank budgets, as a result of us not fully reimbursing them, I think they have had some cutbacks and they are not quite as prepared to deal with increases in the sales of savings bonds and their other increases, as they might otherwise be.

More importantly, perhaps, we have a longstanding tradition of working with the Federal Reserve Banks to build new systems and to fund and administer the public debt in an efficient manner.

Treasury, with excellent support from the reserve system, quickly and efficiently implemented innovations such as STRIPS and Treasury direct which will save millions of dollars in Treasury financing and operating costs. These are examples of Federal Reserve/Treasury cooperation where reimbursement was assured by the Treasury. Reimbursement reinforces Treasury's role in determining reserve priorities and expediting such financing innovations. And I think that unless we can get back to full funding for the Federal Reserve Banks that their inclination to participate in those new initiatives is going to be slower. They are going to be a lot more hesitant. The first question that they are going to ask is are we going to get reimbursed for this.

Senator DECONCINI. How much money did the Federal Reserve Bank bring in? Do you know?

Mr. GREGG. Well, the amount of money that, I believe, Treasury received in 1986 was something like $14 billion returned to Treasury.

Senator DECONCINI. And that is after they took out their operating expenses?

Mr. GREGG. That is correct.

Senator DECONCINI. And what was that? Do you have any idea?

Mr. GREGG. I do not.

Senator DECONCINI. That is the net?

Mr. GREGG. Yes.

Senator DECONCINI. And what their expenses were, in part, was absorbing this amount?

Mr. GREGG. For 1987, approximately one-half of the costs——

Senator DECONCINI. So it comes back one way or the other, and whether or not we give it to you to pay to them, they end up paying back to the Treasury?

Mr. GREGG. That is correct. On the bottom line it is not a budget issue. It is very much an issue of what kind of relationship we have and how well we do our job with the Federal Reserve Banks. Reimbursing the Federal Reserve Banks for their services does not affect the overall Federal budget or deficit. The cost of services provided by the banks is not affected by the amount of appropriated reimbursement. Reserve bank operating costs not funded by Treasury appropriations are offset against Fed receipts which are returned to the Treasury each year.

Senator DECONCINI. Well, I will ask that question of the Federal Reserve. I wonder why it makes a darned bit of difference to them whether it comes back this way or comes——

Mr. ROGERS. I think, Senator, it is the whole truth in accounting——

Senator DECONCINI. Actual cost.

Mr. ROGERS. Actual costs, services rendered by the Federal Reserve System, no matter that we are a Government agency or not, they are to be completely accounted for. The chairman has several times brought this matter up to the Secretary. And the chairman told me that he was going to start cutting the services off at one time in a discussion.

Senator DOMENICI. Did he threaten to raise interest rates?

Mr. GREGG. Well, Mr. Chairman, in addition to that, I think that it is the right way to do business, and I think that there is a benefit by having the full cost go through the normal budget process——

Senator DECONCINI. Sure.

Mr. GREGG [continuing]. To have us defend the work that the Federal Reserve Banks do with the Department, through OMB, and to Congress. Reimbursement gives the Treasury a vehicle for monitoring and controlling the cost of bank services as part of the overall cost of administering the public debt. The appropriations process ensures that Treasury only asks for services necessary to administer the Debt Financing Program.

Senator DECONCINI. It just really gets to me when they make $14 billion plus pay all of their expenses, cannot absorb $40 million of it, and they are uptight. Those were words that I put in your mouth, Mr. Gregg.

Mr. Gregg, what percentage of the public debt is held by foreign entities? Do you have any idea?

DEBT HELD BY FOREIGN PARTIES

Mr. GREGG. Yes, sir; at the end of fiscal year 1986 there was approximately $256 billion held by foreign entities, and that represented 14.7 percent of the debt that is held by the public. We can supply a full set of information on the statistics.

Senator DECONCINI. I would like to see that, if you do not mind.

[The information follows:]

DEBT HELD BY FOREIGN PARTIES

[In billions of dollars]

	Sept. 30, 1984	Sept. 30, 1985	Sept. 30, 1986
TYPE OF INSTRUMENT			
Nonmarketable:			
Bills and certificates of indebtedness:			
Dollar	3.0	3.1	2.8
Foreign currencies			
Subtotal	3.0	3.1	2.8
Bonds and notes:			
Dollar	5.8	3.6	1.3
Foreign currencies			
Subtotal	5.8	3.6	1.3
Marketable:			
Bonds and notes [1]	92.5	127.6	157.2
Bills	70.2	70.3	87.6
Total	162.7	197.9	244.8
Undistributed [2]	2.9	5.8	7.5
Total	174.4	210.4	256.4
TYPE OF FOREIGNER			
Official holdings	126.1	133.0	161.4
Banks and other foreigners	39.1	62.4	78.8
International and regional organizations	6.3	9.2	8.7
Undistributed [2]	2.9	5.8	7.5
Total	174.4	210.4	256.4

[1] Data represent estimated official and private holdings of marketable U.S. Treasury securities with an original maturity of more than 1 year. Data are based on year-end 1978 FPIS data and on monthly TIC transactions reports submitted by banks and brokers in the United States.

[2] Treasury deposit funds belonging to foreigners and the Federal Reserve Bank of New York's end of month repurchase agreements balances.

INCREASE IN DEBT HELD BY FOREIGN PARTIES

Senator DECONCINI. Is that growing or lessening?

Mr. GREGG. There is a slight increase over fiscal year 1985, but actually, if you go back to 1980, whereas the dollar amount has increased from $121 billion in 1980 to $256 billion in 1986, the actual percentage has decreased from 17 percent to 14.7 percent.

Senator DECONCINI. Is 17 percent the highest it has ever been in recent history?

Mr. GREGG. I am not sure, Mr. Chairman.

Senator DOMENICI. Mr. Chairman, might I just ask a clarifying question?

Senator DECONCINI. Go ahead.

Senator DOMENICI. Has the participation by foreign countries changed in terms of what countries are in that package?

Mr. GREGG. I believe there has been some change. Certainly in recent years the Japanese have been quite active in our securities purchases, and we can supply that for the record, a breakdown by countries that participate.

Senator DECONCINI. Yes; that would be helpful. I would like to see that.

[The information follows:]

FOREIGN HOLDINGS OF U.S. TREASURY SECURITIES

Estimated outstanding amounts of U.S. Treasury securities held by foreigners as of fiscal year-ends 1984, 1985, and 1986 are as follows:

Country	September 1984	September 1985	September 1986
Austria	$712,000,000	$755,000,000	$1,359,000,000
Belgium-Luxembourg	680,000,000	1,094,000,000	1,546,000,000
Bulgaria	0	0	0
Czechoslovakia	(1)	(1)	(1)
Denmark	699,000,000	951,000,000	1,055,000,000
Finland	196,000,000	35,000,000	280,000,000
France	5,244,000,000	6,920,000,000	13,288,000,000
German Democratic Republic	(1)	(1)	(1)
Germany[2]	25,897,000,000	27,654,000,000	29,014,000,000
Greece	179,000,000	224,000,000	369,000,000
Hungary	(1)	(1)	(1)
Italy	5,044,000,000	3,959,000,000	2,723,000,000
Netherlands	4,663,000,000	5,075,000,000	6,200,000,000
Norway	1,727,000,000	3,384,000,000	3,482,000,000
Poland	(1)	(1)	(1)
Portugal	6,000,000	7,000,000	10,000,000
Romania	0	0	0
Spain	336,000,000	281,000,000	855,000,000
Sweden	2,211,000,000	3,130,000,000	2,798,000,000
Switzerland	19,242,000,000	17,919,000,000	22,272,000,000
Turkey	1,000,000	35,000,000	52,000,000
United Kingdom	14,456,000,000	15,210,000,000	18,098,000,000
U.S.S.R	(1)	(1)	(1)
Yugoslavia	13,000,000	4,000,000	(1)
Other Europe	2,005,000,000	2,759,000,000	2,754,000,000
Total Europe	83,168,000,000	89,396,000,000	106,153,000,000
Canada	3,400,000,000	5,336,000,000	7,962,000,000
Argentina	348,000,000	854,000,000	1,243,000,000
Bahamas	760,000,000	1,097,000,000	1,876,000,000
Bermuda	540,000,000	1,019,000,000	1,855,000,000
Brazil	55,000,000	1,277,000,000	1,329,000,000
British West Indies	241,000,000	354,000,000	332,000,000
Chile	95,000,000	194,000,000	360,000,000
Colombia	27,000,000	222,000,000	511,000,000
Cuba	(1)	(1)	(1)
Ecuador	3,000,000	9,000,000	14,000,000
Guatemala	2,000,000	7,000,000	19,000,000
Jamaica	17,000,000	8,000,000	40,000,000
Mexico	361,000,000	602,000,000	599,000,000
Netherlands	134,000,000	2,558,000,000	2,315,000,000
Panama	634,000,000	1,066,000,000	1,126,000,000
Peru	6,000,000	18,000,000	10,000,000
Trinidad and Tobago	1,000,000	1,000,000	19,000,000
Uruguay	88,000,000	98,000,000	80,000,000
Venezuela	402,000,000	1,403,000,000	1,623,000,000
Other Latin America	45,000,000	121,000,000	341,000,000
Total Latin America	2,947,000,000	10,893,000,000	13,579,000,000

See footnotes at end of table.

Country	September 1984	September 1985	September 1986
China: Mainland	(1)	$216,000,000	$454,000,000
China: Taiwan	$2,863,000,000	2,903,000,000	7,372,000,000
Hong Kong	2,390,000,000	3,458,000,000	4,065,000,000
India	809,000,000	800,000,000	796,000,000
Indonesia	123,000,000	197,000,000	300,000,000
Israel	649,000,000	1,111,000,000	1,541,000,000
Japan	23,242,000,000	39,450,000,000	58,336,000,000
Korea	299,000,000	556,000,000	1,961,000,000
Lebanon	107,000,000	5,000,000	1,000,000
Malaysia	568,000,000	320,000,000	168,000,000
Pakistan	322,000,000	329,000,000	425,000,000
Philippines	3,000,000	294,000,000	383,000,000
Singapore	7,916	7,743,000,000	7,363,000,000
Syria	(1)	2,000,000	1,000,000
Thailand	470,000,000	611,000,000	687,000,000
Middle East oil exporters	30,190,000,000	27,784,000,000	25,381,000,000
Other Asia	154,000,000	225,000,000	238,000,000
Total Asia	69,924,000,000	85,817,000,000	109,412,000,000
Egypt	9,000,000	93,000,000	104,000,000
Liberia	10,000,000	135,000,000	82,000,000
Morocco	26,000,000	26,000,000	26,000,000
South Africa	29,000,000	1,000,000	13,000,000
Zaire	4,000,000	6,000,000	5,000,000
African oil exporters	66,000,000	47,000,000	27,000,000
Other Africa	44,000,000	66,000,000	110,000,000
Total Africa	188,000,000	372,000,000	365,000,000
Australia	5,400,000,000	3,449,000,000	2,458,000,000
All other	161,000,000	142,000,000	223,000,000
Total other countries	5,561,000,000	3,591,000,000	2,681,000,000
Total foreign countries	165,189,000,000	195,376,000,000	240,152,000,000
International	5,220,000,000	7,687,000,000	6,401,000,000
European regional	0	0	20,000,000
Latin American regional	(1)	(1)	146,000,000
African regional	0	0	1,000,000
Asian regional	966,000,000	1,454,000,000	2,085,000,000
Middle Eastern regional	83,000,000	83,000,000	83,000,000
Total international and regional	6,269,000,000	9,177,000,000	8,737,000,000
Undistributed [3]	2,913,000,000	5,825,000,000	7,509,000,000
Grand total	174,371,000,000	210,377,000,000	256,398,000,000

[1] Less than $500,000.
[2] Germany's holdings of Treasury bonds and notes include nonmarketable issues for fiscal year-ends 1984, 1985, and 1986.
[3] Treasury deposit funds belonging to foreigners and the Federal Reserve Bank of New York end of month repurchase agreements.

NOTE.—Country detail may not add to totals due to rounding adjustments.

PARTICIPATION OF FOREIGN COUNTRIES IN PUBLIC DEBT

Senator DOMENICI. Mr. Chairman, I am really confused, because it seems to me we have been saying to the American people, quite loudly, that one of the reasons we are able to debt service this growing public debt is the enormous participation by foreign countries in this, and you are telling us that this has not changed much?

Mr. GREGG. Well, the overall percentage has not changed. Certainly the amount that they have been buying has grown. Between 1980 and 1986 it has practically doubled in terms of dollars.

Senator DOMENICI. OK. So we are still right in warning people in that the amount of the debt has gone up so much? So the percentage is the same but the participation is many more dollars because our debt is bigger?

Mr. GREGG. Yes, sir.

Senator DOMENICI. How much of the debt turns over periodically? We have $2.1 trillion—whatever the number is—how often does that turn over?

Mr. GREGG. I think the average maturity of the debt is a little over 5 years. We have some securities, of course, like Treasury bills that are sold for 13 weeks or 26 weeks that turn very rapidly. We have others going out for as long as 30 years where that turnover is very slow.

But the average maturity is a little over 5 years.

Senator DOMENICI. So that accounts for the fact that even though interest rates dropped dramatically, the average interest rate on the national debt did not drop as quickly because we are not turning it over as quickly as reflected by current interest rates?

Mr. GREGG. Yes, sir; although there has been a fairly substantial decrease. At the end of fiscal year 1984 the average for all interest bearing debts was 11.063 percent and it is now down to 8.9 percent. So it has dropped over 2.1 percent, but it has not dropped as dramatically because of the older debt.

Senator DOMENICI. Old debt?

Mr. GREGG. The old debt, yes.

PUBLIC DEBT ACCOUNTING AND REPORTING SYSTEM

Senator DECONCINI. Mr. Gregg, I understand that the Bureau is spending several million dollars on developing a new public debt accounting system——

Mr. GREGG. Yes, sir.

Senator DECONCINI [continuing]. That will better coordinate public debt transactions; interest payments, and securities accountability. A recent Treasury inspector general study apparently stated that the function relating to Government trust fund accounts performed by the Bureau and the Financial Management Service were duplicative. Will the new public debt accounting system eliminate this duplication? And if it does not, what steps are you taking to address the inspector general's concerns?

Mr. GREGG. This is another example, I might add, Mr. Chairman, of the Federal Reserve Bank working with us to make improvements. This work is being done jointly by the Cleveland Federal Reserve Bank and the Bureau of the Public Debt, and it is a much needed improvement.

To answer your specific question, yes, indeed, it will eliminate the duplication that we have with FMS under the current arrangement with the trust funds. We will be building a system that they will have direct

access to and will have one data base, so it will eliminate the concerns of the inspector general.

Senator DECONCINI. When is that going to come about?

Mr. GREGG. It is scheduled for implementation in 1989 and work is well underway on it.

GUARANTEED MINIMUM RATE

Senator DECONCINI. The Senator from New Mexico.

Senator DOMENICI. Might I ask Secretary Rogers and Mr. Speers, with reference to savings bonds, does the Secretary have the authority to adjust the interest rates to the economic realities of our time?

Mr. ROGERS. Well, Senator, they actually are tied to the 5-year marketable rate, and then he has room within that amount. Is that not correct, Jerry?

Mr. SPEERS. The guaranteed minimum rate is actually what was adjusted on November 1, and I believe that the President has the authority to adjust that. The variable rate that is given to the savings bond is adjusted every 6 months, on November 1 and May 1, and that is 85 percent of the average rate that is paid on 5-year marketable securities.

Senator DOMENICI. Am I correct, without asking for an explanation of the macro effects of a savings bond guaranteed rate that was too high in proportion to the daily market, that if you have a large national debt that he is debt servicing over here, and you have savings bond proposals over there, that it makes no real sense for the American taxpayer and the debt itself for you to be inordinately high?

Mr. SPEERS. That is correct. The Savings Bonds Program itself, according to the model for the Treasury, saves $26 million for every 1 billion dollars' worth of bonds that are sold. Of course, that would not be the case that savings would not result if the guaranteed minimum were to be out of line with the market conditions of the day. That is why the guaranteed minimum was lowered earlier.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator DECONCINI. Very good. Thank you, Senator. Thank you, Mr. Gregg. Our next witness is Donna Pope, Director of the U.S. Mint who will be testifying on her budget.

U.S. MINT

Ms. Pope, we welcome you here and your full statement will be put in the record. You may summarize it, please.

Ms. POPE. Thank you, Mr. Chairman. It is my pleasure to be here before this committee. Before I start on our 1988 budget I would like to discuss a few of our activities from the past—in other words, tell you what we have been up to. We have had an extremely busy year this last year. It may have been the most busy year the mint has ever had in its history.

We produced 12.6 billion coins for domestic circulation in 1986, and that turned a profit to the Federal Government of $392 million. The Statue of Liberty Coin Program raised over $81 million for the Statue

of Liberty Ellis Island Foundation. It was the largest single fundraiser for the restoration of the statue. Two million dollars of that profit came from sales overseas, so that, in effect, people all over the world helped restore our statue.

The Government also profited by $61 million from the Statue of Liberty program. The silver for that program came from the strategic stockpile as legislatively mandated, and the profit to the stockpile was $27.3 million. We began the Gold Bullion Coin Program that we talked about earlier with enormous success. In less than 3 months from the start of the program we sold over 1.1 billion dollars' worth of gold bullion, or 2½ million ounces of gold.

The committee might be interested to know that Fortune Magazine rated the American eagle bullion coin as the No. 1 new product of 1986. Of the 2.2 million ounces of gold that we purchased for this program, 1.9 million ounces is newly mined U.S. gold.

The Silver Bullion Program also began with great success and in less than 3 months of that program we sold over 67 million dollars' worth of silver bullion, or 7.2 million ounces of silver. Again, the silver came from the stockpile, and the profit to the stockpile was $29.4 million. Altogether the mint turned over to the Government a profit of $518 million in 1986.

Our research and development projects continue to show productive gains and result in further savings. We believe that our plans for the future hold even more successes. We really just began an R&D program in recent years.

Our 1988 budget request is for $46,511,000 and 901 average positions. The budget request will allow the mint to produce 13.3 billion coins, and that combined with 1.6 billion coin inventory drawdown will meet our projected demand of 14.9 billion coins. Profit to the Treasury for 1988 is estimated to be $482 million.

Our 1988 budget is an increase of $4 million, but that $4 million is made up, basically, by the cost of asbestos removal, the new retirement system, and the cost-of-living increase.

There is language in the legislation which talks about the hosting of an International Mint Directors' Conference, and I would like to address that for 1 minute. We do have the honor of hosting the International Mint Directors' Conference in 1988. It is a very good technical conference with participating mints throughout the world. Except for new members, Greece and the United States are the only countries that have not hosted the conference.

We will not be asking for any additional moneys or supplemental money. We will utilize to the fullest extent possible fees collected from participants to defray the cost of hosting the conference, and additionally up to $100,000 of our appropriation may be used for some of the aspects.

We need the special language in the appropriation bill, because quite literally, without it we would not be able to have morning coffee or serve sodas during the breaks. It is very important that we have the lan-

guage. Other agencies, I understand, have been in the same position and done the same thing in the past.

Recently we discovered the need for and conducted an in-depth survey of the Denver Mint to determine the need for further asbestos removal and discovered that more removal is needed, and based on that survey we have a plan. We reprogrammed $500,000 in our 1987 budget to start it and we are asking for $2 million to complete asbestos removal in 1988. I know we all understand the importance of asbestos removal.

In 1985 and 1986 we began several research and development projects, one of which we are very pleased with. It is a new coin press feed system, and if it works the way the prototype worked we expect a 25-percent productivity increase per coin press.

We have made significant progress on our robot to stack coin bags on to pallets, and we will be demonstrating that in Philadelphia next month. Hopefully that will also cut down on some of the workers compensation claims that we have had for back problems in the past. We propose to continue our R&D programs with several new projects in 1988.

In May 1984 a construction contract was awarded to Caddell Construction Co., to complete improvements at the Denver Mint. That construction is now finally completed with the exception of the material handling system. We are not requesting any additional funds in 1988 for expansion and improvement.

PREPARED STATEMENT

Taking all of our numismatic operations, our reimbursable operations that pay for themselves in 1988, we anticipate another successful year and one that will turn over a sizeable amount to the Treasury. In summary, we are asking for $46.511 million and 901 positions.

[The statement follows:]

STATEMENT OF DONNA POPE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, IT IS MY PLEASURE TO PRESENT FOR YOUR CONSIDERATION THE FY 1988 BUDGET REQUEST FOR THE UNITED STATES MINT.

FY 1986/1987 SUCCESSES

BEFORE I SUMMARIZE OUR FY 1988 REQUEST AND DISCUSS MAJOR ACTIVITIES FOR FY 1988, I WOULD LIKE TO HIGHLIGHT A FEW FY 1986/1987 SUCCESSES:

--- WE PRODUCED APPROXIMATELY 12.6 BILLION COINS FOR DOMESTIC CIRCULATION IN FY 1986. THIS RESULTED IN A NET PROFIT TO THE FEDERAL GOVERNMENT OF $392 MILLION.

--- THE STATUE OF LIBERTY PROGRAM, THE MOST SUCCESSFUL COMMEMORATIVE PROGRAM TO DATE, RAISED OVER $81 MILLION FOR THE STATUE OF LIBERTY-ELLIS ISLAND FOUNDATION. OVER 15 MILLION COINS WERE SOLD. IN ADDITION, THE UNITED STATES TREASURY WAS BENEFITED BY AN OPERATING PROFIT OF APPROXIMATELY $27 MILLION AND A PROFIT ON THE SALES OF GOVERNMENT GOLD OF $34 MILLION OR A TOTAL PROFIT OF $61 MILLION.

--- WE BEGAN THE GOLD BULLION COIN PROGRAM WITH ENORMOUS SUCCESS. THE PUBLIC HAS SHOWN UNPRECEDENTED INTEREST IN THIS PROGRAM. AS OF FEBRUARY 18, 1987, THE MINT SOLD OVER $1.1 BILLION WORTH OF GOLD BULLION COINS OR 2.5 MILLION OUNCES OF GOLD. FORTUNE MAGAZINE RATED THE AMERICAN EAGLE BULLION COINS AS THE NUMBER ONE NEW PRODUCT OF 1986.

--- THE SILVER BULLION PROGRAM ALSO BEGAN WITH SUCCESS AND THE PUBLIC HAS SHOWN A STRONG INTEREST IN THIS PROGRAM. AS OF FEBRUARY 18, 1987, THE MINT SOLD OVER $67 MILLION WORTH OF SILVER BULLION COINS OR 7.2 MILLION OUNCES OF SILVER.

--- PROFIT ON THE SALES OF PROOF SETS, AND UNCIRCULATED SETS AMOUNTED TO $9.7 MILLION.

--- FOR THE SECOND TIME, THE MINT ISSUED A CATALOG OF ALL ITS PRODUCTS TO ITS 2.5 MILLION MAILING-LIST CUSTOMERS. WE ESTIMATE PROFIT FROM CATALOG SALES TO BE $3.8 MILLION. ADDITIONALLY, WE GREATLY IMPROVED THE PROCESSING OF THESE ORDERS OVER THE PREVIOUS YEAR, AT A PACE ABOVE AND BEYOND THAT WHICH WE HAD PROMISED OUR CUSTOMERS IN OUR MARKETING MATERIAL.

--- Our new computer systems were brought on line and our arrangements with Mellon Bank permit us to process customer orders at a far greater rate than in the past.

--- Our research and development projects continue to show productive gains, resulting in further savings to the Federal Government.

We believe the plans for the future hold more successes.

FY 1988 BUDGET REQUEST

The Mint's FY 1988 budget request for Salaries and Expenses is $46.511 million and 901 average positions.

This budget request will allow the Mint to produce 13.3 billion coins. Combined with a 1.6 billion coin inventory drawdown, this production will satisfy projected requirements of 14.9 billion coins.

Our contribution to the Treasury for FY 1988 operations is estimated at $482 million; $432 million of which will be seigniorage on domestic coins and $50 million will be from the sale of numismatic items.

The Mint's FY 1988 budget net increase of $4.003 million is composed of the following:

°Increases of $1.5 million for asbestos removal which is essential to provide a safer enviornment for our employees;

°$1.491 million for the Federal Employees Retirement System;

°$460,000 to offset inflation;

°$801,000 for employee cost of living increases;

°$796,000 for the increase in coin production;

°$346,000 for equipment replacement;

°Decreases brought about by productivity savings of $530,000 and 20 average positions related to coin production; and,

°$861,000 non-recurring cost for research and development;

and reductions to absorb the pay increase.

INTERNATIONAL MINT DIRECTOR'S CONFERENCE

The United States Mint has the honor of hosting the International Mint Directors' Conference in FY 1988.

The purpose of this conference, which is held every two years, is for exchange of information of common interest to the participating mints throughout the world. The FY 1988 Conference will be the 15th such con-

FERENCE. EXCEPT FOR NEW MEMBERS, GREECE AND THE UNITED STATES ARE THE ONLY COUNTRIES THAT HAVE NOT HOSTED THE CONFERENCE. THE LAST THREE CONFERENCES WERE HOSTED BY PORTUGAL, DENMARK, AND CANADA.

THE PRESIDENT OF THE CONFERENCE THIS YEAR IS NAPOLEON GOMEZ URRUTIA, THE MINT DIRECTOR OF MEXICO. OUR GOOD RAPPORT AND PROXIMITY MAKE IT EASIER TO COORDINATE THE PROGRAM AND LOGISTICS.

THE CONFERENCE CONSISTS OF SEVERAL WORKING SESSIONS IN WHICH THE DIRECTORS OF MEMBER-NATION MINTS AND OBSERVER MINTS PARTICIPATE. VARIOUS INDUSTRY REPRESENTATIVES ALSO WILL ATTEND SEVERAL OPEN SESSIONS OF THE CONFERENCE AND PRESENT THE LATEST DEVELOPMENTS IN COIN RELATED EQUIPMENT AND MANUFACTURING TECHNIQUES.

OUR WORKING AGENDA FOR THIS CONFERENCE WILL INCLUDE SUCH TOPICS AS CONTAMINATION CONTROL AND ENVIRONMENTAL INCENTIVES, ENGRAVING AND CHROME PLATING, WORLD BULLION COIN MARKETING OUTLOOKS, AND COMMEMORATIVE COINAGE PROGRAMS.

NO ADDITIONAL OR SUPPLEMENTAL APPROPRIATION WILL BE REQUESTED FOR PURPOSES OF HOSTING THIS CONFERENCE. RATHER, THE MINT WILL UTILIZE, TO THE FULLEST EXTENT POSSIBLE, FEES COLLECTED FROM VARIOUS PARTICIPANTS TO DEFRAY THE COST OF HOSTING THE CONFERENCE. UP TO $100,000 OF OUR FY 1988 APPROPRIATION WILL BE USED FOR VARIOUS OPERATIONAL ASPECTS OF THE CONFERENCE, INCLUDING, OF COURSE, FEES FOR TRANSLATION IN THE THREE OFFICIAL LANGUAGES. WE HAVE REQUESTED SPECIAL LANGUAGE IN THE APPROPRIATION BILL TO CLARIFY OUR AUTHORITY TO USE OUR APPROPRIATION FOR REPRESENTATION, RECEPTION, AND CERTAIN TRANSPORTATION EXPENSES. WE ALSO NEED SPECIFIC LANGUAGE TO EXPEND THE FEES COLLECTED FROM THE VARIOUS PARTICIPANTS RATHER THAN DEPOSITING THOSE FEES TO THE GENERAL FUND OF THE TREASURY.

ASBESTOS REMOVAL

RECENTLY, WE CONDUCTED AN INDEPTH SURVEY OF THE DENVER MINT TO DETERMINE THE NEED FOR ASBESTOS REMOVAL. BASED ON THAT SURVEY, WE HAVE DEVELOPED A PLAN FOR REMOVAL AND HAVE REPROGRAMMED $500,000 IN FY 1987 TO START THE PLAN.

MARCH 6, 1987

FOR FY 1988, WE ARE REQUESTING $2 MILLION TO COMPLETE THE ASBESTOS REMOVAL IN DENVER. AS YOU CAN APPRECIATE, OUR EFFORTS IN THIS AREA WILL

EVENTUALLY RESULT IN A SAFER ENVIRONMENT FOR OUR EMPLOYEES. I AM SURE YOU UNDERSTAND THE IMPORTANCE OF THIS EXPENDITURE.

NEW COMPUTER SYSTEM

IN THE RECENT PAST, WE COMMENCED AN AMBITIOUS EFFORT OF MODERNIZING OUR OUT-DATED DATA PROCESSING SYSTEMS. IN ADDITION TO SUCCESSFULLY IMPLEMENTING SEVERAL NEW ADMINISTRATIVE INFORMATION SYSTEMS IMPROVEMENTS, WE HAVE SUCCESSFULLY BROUGHT ON LINE A VASTLY IMPROVED ORDER PROCESSING SYSTEM WHICH HAS ENABLED US OVER THE PAST YEAR TO EXPEDITIOUSLY PROCESS OVER 3 MILLION ORDERS AND PROVIDE A MUCH HIGHER QUALITY OF SERVICE TO OUR CUSTOMERS. FURTHERMORE, WE HAVE BEEN ABLE TO OPERATE THIS STATE-OF-THE-ART SYSTEM AT FAR LOWER COSTS THAN THE OUT-DATED SYSTEM IT REPLACED.

RESEARCH AND DEVELOPMENT PROJECTS

IN FY 1985-1986, WE BEGAN SEVERAL RESEARCH AND DEVELOPMENT PROJECTS WITH A VIEW OF ENHANCING THE PRODUCTIVITY OF OUR PRODUCTION EQUIPMENT AND PROCESSES. THE HARDWARE RESULT OF THE PROJECT TO DEVELOP AN IMPROVED COIN PRESS FEED SYSTEM, IS NOW IN PRODUCTION TESTING. WE HAVE RECEIVED TEN UNITS THAT ARE CURRENTLY BEING INSTALLED. WE EXPECT A PRODUCTIVITY INCREASE OF ABOUT 25% PER COIN PRESS. THE R&D WORK ON DIE SHOP AUTOMATION HAS RESULTED IN THE PURCHASE OF MODERN COMPUTER NUMERIC CONTROL EQUIPMENT FOR THE DIE SHOP WHICH WILL RESULT IN GREATER DIE OUTPUT PER FTE. SIGNIFICANT PROGRESS HAS ALSO BEEN MADE ON OUR ATTEMPT TO USE A ROBOT TO STACK COIN BAGS ONTO PALLETS. THE PROTOTYPE SYSTEM WILL BE DEMONSTRATED IN PHILADELPHIA THIS MONTH. AS PREVIOUSLY MENTIONED, OUR RESEARCH AND DEVELOPMENT PROGRAM HAS SHOWN POSITIVE RESULTS AND YOU SHOULD SEE EVEN MORE PRODUCTIVITY SAVINGS FROM IT IN FY 1989 AND LATER YEARS. WE PROPOSE TO EXPAND OUR RESEARCH WITH THREE NEW PROJECTS IN FY 1988 AS WELL AS CONTINUE THREE OF THE PROMISING EFFORTS ALREADY BEGUN. THE NEW PROJECTS INCLUDE: LUBRICATION DURING THE COINING PROCESS; CAD/CAM ENGRAVING; AND AUTOMATED PACKAGING OF PROOF COINS.

EQUIPMENT ACQUISITION

OUR EQUIPMENT ACQUISITION PLAN INCLUDES FUNDS FOR THE REPLACEMENT OF OBSOLETE EQUIPMENT AND FOR PROCURING TWO NEW COINING PRESSES TO REPLACE WORN-OUT PRESSES. OUR REQUEST FOR FY 1988 INCLUDES $2.344 MILLION FOR THESE PURPOSES.

DENVER EXPANSION AND IMPROVEMENTS

As you know, in May 1984 a construction contract in the amount of $10.1 million was awarded to Caddell Construction Company to complete the planned improvements at the Denver Mint. The construction work is now completed with the exception of a materials handling system and the installation of additional security equipment. When all is completed, Denver will be capable of producing at a capacity of 9 billion coins per year. The Mint is not requesting any additional funds in FY 1988 for expansion and improvements.

PERSONNEL

The employment level in our budget request for FY 1988 will be 2,192 workyears; 901 for appropriated activities; and 1,291 for reimbursable activities. This is 50 fewer reimbursable workyears and 20 fewer appropriated workyears than was authorized in 1987. The decrease in reimbursable FTEs results from efficiencies gained in processing orders on our newly implemented computer system and the completion of the Statue of Liberty Program. This decrease was accomplished even in the face of growing requirements as a result of implementing the Gold and Silver Bullion programs. This budget was prepared before the passage of the Bicentennial Constitution Commemorative Coin Program. Therefore, additional FTE's will be requested to accomplish the program. The decrease in FTEs for appropriated activities results from productivity improvements related to coin production.

REIMBURSABLE OPERATIONS

The Mint's recurring numismatic and medal programs for FY 1988 will have as their base the Annual Proof Coin Sets, Annual Uncirculated Coin Sets, Congressionally Authorized Medals, and the new Gold and Silver Bullion programs. Additionally, our reimbursable operations will include the recently legislated Constitution Coin Program, which will commemorate the bicentennial of the United States Constitution. All production operations and sales activities related to these programs will be financed from reimbursable funds.

BULLION PROGRAMS

The Gold and Silver Bullion programs are continuing programs. These coins are being sold in uncirculated condition for investment and in proof condition for numismatic collections. In essence, both bullion programs have

BECOME A PART OF THE MINT'S RECURRING PROGRAMS. AS OF FEBRUARY 18, 1987, THE MINT SOLD 2.1 MILLION OUNCES OF GOLD BULLION UNCIRCULATED COINS ISSUED IN FOUR DENOMINATIONS AND 5.8 MILLION OUNCES OF SILVER BULLION ONE DOLLAR COINS. BOTH THE GOLD AND SILVER BULLION COINS ALSO WERE OFFERED IN ONE OUNCE PROOF CONDITION. THE MINT SOLD 436,000 PROOF GOLD ONE OUNCE COINS AND 1.4 MILLION PROOF SILVER ONE OUNCE COINS.

COMMEMORATIVE COIN PROGRAM

AS PREVIOUSLY NOTED, THE STATUE OF LIBERTY COIN PROGRAM HAS BEEN THE MOST SUCCESSFUL OF THE UNITED STATES COMMEMORATIVE COIN PROGRAMS TO DATE. OVER $81 MILLION HAS BEEN RAISED AND PAID TO THE STATUE OF LIBERTY-ELLIS ISLAND FOUNDATION THROUGH THE SALES OF THESE COINS. IN EARLY 1987, WE WILL PHASE OUT THIS PROGRAM AND ACCELERATE SUPPORT ACTIVITIES FOR THE RECENTLY AUTHORIZED CONSTITUTION COIN PROGRAM. FIVE DOLLAR GOLD AND ONE DOLLAR SILVER COINS IN PROOF AND UNCIRCULATED CONDITION WILL BE PRODUCED DURING THIS PROGRAM TO COMMEMORATE THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION. THE MINT PLANS TO BEGIN PRODUCTION AND SHIPMENT OF THESE COINS IN MID-1987, AND WILL CONTINUE FULL SUPPORT FOR THIS PROGRAM DURING FY 1988.

ANNUAL PROOF COIN SETS

THE FIVE COIN PROOF SET CONTAINS ONE OF EACH DOMESTICALLY CIRCULATED COINS PRODUCED BY THE MINT AND IS ONLY PRODUCED AT THE SAN FRANCISCO ASSAY OFFICE. ALL OF THE COINS HAVE THE "S" MINT MARK AND ARE PROOF QUALITY OR OUR HIGHEST QUALITY, WITH SPECIAL ATTENTION GIVEN TO HANDLING. THESE SETS ARE SOLD THROUGH THE MINT'S 2.5 MILLION CUSTOMERS MAILING LIST, OVER-THE-COUNTER AT THE MINT'S FOUR SALES AREAS, AND AT NUMISMATIC AND FINANCIAL CONVENTIONS THROUGHOUT THE YEAR. THE MINT EXPECTS TO PRODUCE AND SELL APPROXIMATELY 2.7 MILLION PROOF COIN SETS DURING FY 1988.

ANNUAL UNCIRCULATED COIN SETS

UNCIRCULATED COIN SETS CONTAIN ONE OF EACH DOMESTICALLY CIRCULATED COINS PRODUCED BY THE MINT AND ARE PRODUCED AT BOTH THE PHILADELPHIA AND DENVER MINTS. UNLIKE PROOF COINS, UNCIRCULATED COINS ARE NOT MULTIPLE STRUCK ON SPECIALLY BURNISHED BLANKS AND POLISHED DIES, BUT REPRESENT THE BEST OF THE CIRCULATING COINAGE PRODUCED. THE MINT EXPECTS TO PRODUCE AND SELL APPROXIMATELY 1.4 MILLION UNCIRCULATED SETS DURING FY 1988.

SUMMARY

IN SUMMARY, THE MINT IS REQUESTING FOR FY 1988 AN APPROPRIATED SALARIES AND EXPENSES BUDGET OF $46,511 MILLION THAT WILL PROVIDE FOR: (1) EXPECTED COIN DEMAND; (2) AN ASBESTOS REMOVAL PROGRAM; AND (3) CONTINUED RESEARCH AND DEVELOPMENT TO IMPROVE COINING PROCESSES.

I SINCERELY APPRECIATE THE SUPPORT THAT THIS COMMITTEE HAS GIVEN THE UNITED STATES MINT PROGRAMS IN THE PAST AND LOOK FORWARD TO WORKING WITH YOU IN THE FUTURE.

THIS CONCLUDES MY PREPARED REMARKS. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

BACKGROUND PAPER

AMERICAN GOLD INDUSTRY PRAISES EAGLE COINS

The United States Mint's American Eagle Bullion Coin Program has not only met with tremendous sales success: it will greatly benefit the American gold industry, by helping to maintain jobs for hundreds of American miners and workers in gold refining and blank manufacturing plants.

"The Eagle coins are the best thing to happen to the American gold community in a long while," according to John Lutley, managing director of the Washington-based Gold Institute. "By purchasing the nation's available supplies of newly mined gold and producing a popular product, the Mint is providing a vital new market for the domestic gold industry. They're also producing an American gold coin for the United States to export to foreign markets," he continued.

"By establishing a long-term program to produce a competitively-price American gold coin, the Mint is helping to stabilize and stimulate the U.S. gold industry; thus, directly aiding Americans who work in gold-related occupations," said Harry Conger, chief executive officer of Homestake Mining Company, the nation's largest and oldest gold mining concern. "I think it's a great example of government and industry working together to produce an American product that is both popular at home and competitive overseas," he continue.

John Lutley believes there is little room for improvement in the Mint's program of buying all available newly mined domestic gold and filling any shortfalls with gold purchased on the world market. Even though domestic gold production has increased dramatically, from 2.1 million ounces in 1984 to a projected 5.7 million ounces in 1989, the nation continues to be a net importer of gold for all uses.

"If the Mint decided to use Treasury Reserves to make coins, the additional supply of gold would depress prices and directly slow or reverse the expansion of jobs in American gold mining and related industries. It would also

reduce the value of gold now possessed by thousands of Americans," Lutley continued.

The mining industry supports the purchase of gold from GATT signatory countries instead of the extensive use of reserves, because the reserves would be competition to newly mined gold.

"Conversely, if the Mint simply stopped producing American Eagle coins when newly mined domestic gold is unavailable, retail prices would rise dramatically and coins would always be in short supply. This also runs counter to the purpose of the bullion coin program," Lutley continued.

Since the inception of the Eagle coin program in October 1986, the U.S. Mint has bought over 1.9 ozs. of domestic gold. To date, over 3.9 million gold Eagle coins have been purchased by consumers worldwide.

MEMORANDUM FROM HOWARD SEGERMARK, INDUSTRY COUNCIL FOR TANGIBLE ASSETS

TO: Donna Pope, Director of the Mint

FROM: Howard Segermark

RE: ICTA Position on the Distribution System for the American Eagle

DATE: March 2

Early in 1986, ICTA made certain recommendations as to the distribution system the Mint should adopt. We recommended essentially a system like that used by the Royal Canadian Mint and the International Gold Corporation for marketing their bullion coins. To a great extent, the Mint adopted that position, and ICTA publicly applauded tha decision.

ICTA's position is that the Eagle distribution system should rely on the strengths of bulk purchasers, wholesale market makers, secondary distributors, and retailers now largely in place. We believe that the long-run success of the program -- and the best interests of the consumer/investor -- is served by such a system. We are opposed to the U.S. Government competing with the private sector by duplicating functions now being performed by companies and individuals. We do not believe the consumer would be best served by such a change in the program.

We further believe that distibution and retailing functions are now being performed efficiently and properly.

On another issue relevant to the Eagle program is ICTA's role during the deliberations on the authorizing legislation 1985. We worked for passage of the bill and urged the adoption of the provision relating to requirements for replacement of gold minted into the Eagle coins. It continues to be our view, that there should be minimal net outflows from the Treasury.

As our association represents over 500 retail dealers as well as manufacturers, refiners, wholesalers, storage facilities, and bulk purchasers, ICTA has monitored the program from its inception. In addition, ICTA will be taking an active role in congressional deliberations on the Eagle program.

Senator DECONCINI. Senator Domenici.

Senator DOMENICI. No questions.

Senator DECONCINI. Ms. Pope, you are asking $1.5 million for asbestos removal from the mint facilities, particularly in Denver. I also understand that you are reprogramming $500,000 out of fiscal year 1987 funds to start this asbestos removal. As you know, the GSA is supposed to provide repair and alteration projects such as these out of the Federal building fund—a fund to which the mint pays user charges or rent.

Why should we have to approve this? Why can you not get it from the GSA?

Mr. ROGERS. We, Senator, operate our own buildings. All the mint buildings are Treasury owned and operated, including the Treasury and the annex, and so we fully fund for those operations and we have never received money from the public buildings fund for that purpose,

Senator DECONCINI. Do you not pay them?

Mr. ROGERS. No; we donot pay SLUC for our Treasury operated buildings. We do not pay for our mint—is that right? San Francisco we do not pay for. Denver is our own. We do not pay SLUC for those buildings. We pay for our other operations in rented space, but as you look at our request you will see, for example, the annex, the Treasury main building, and Denver we have this asbestos removal program going on there in each of those categories.

Senator DECONCINI. Well, thank you. That is a clarification.

Ms. Pope, the mint is requesting nearly $1 million for research and development in fiscal year 1988, a small reduction below current levels. At a time when we are trying to hold down spending, why should we approve $1 million for R&D in your projects when you are doing so well?

Ms. POPE. Because——

Senator DOMENICI. It helps them to do better.

Ms. POPE. That is absolutely right, Senator. Because one of our last projects resulted in a savings of 20 FTE's for our 1988 budget. I think we spent $500,000 for one project and saved that in 1 year. Hopefully, we will have the same sort of results with the projects that we intend to undertake in 1988.

Lubrication of the coin presses is something that should cut down on die life and also enhance the life of our——

Senator DECONCINI. Is that what that $1 million would be used for?

Ms. POPE. That is just part of it. Another part of it is for computer-aided design and manufacturing, which, of course, is also very labor intensive. If we can cut down on that we will be saving future moneys. And not only that, doing a better job.

Senator DECONCINI. Mr. Rogers, I have the budget here. It shows standard level user charges in 1987, $545,000, 1988, $593,000.

Mr. ROGERS. I think, Senator, that is for the coin programs such as the Statue of Liberty that did occupy leased space. The team that was put together, Demar could not handle all of those. But the main buildings, the Denver facility, the——

Senator DECONCINI. Is that still going on in 1988?

Mr. ROGERS. Well, there was a carryover and then we went into the regular gold bullion and——

Ms. POPE. Well, we pay rent for our headquarters space here in Washington.

Mr. ROGERS. The headquarters space as well is in a rental building. But the main facilities——

Senator DECONCINI. None of the mint facilities?

Mr. ROGERS. No; including Fort Knox and West Point.

Senator DECONCINI. Fine. I have no further questions. Thank you very much, Ms. Pope.

Ms. POPE. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. The additional questions will be inserted in the record at this point.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

DEPARTMENT OF THE TREASURY

Additional Committee Questions

CREDIT MANAGEMENT AND DEBT COLLECTION

Question. Treasury has been assigned Governmentwide operational leadership for debt collection. Last year, I introduced the "Federal Credit Management and Debt Collection Improvements Act of 1988" (S. 2620) to strengthen the Government's debt collection and credit management practices. GAO called for legislative changes in its May 1986 report to me on continuing debt collection problems.

Question 1. Does Treasury have the resources to effectively carry out this mandate?

Question 2. What is Treasury doing to assure that agencies are following its lead in improving long-standing debt collection problems?

Question 3. Does Treasury support the type of legislative reforms called for in S. 2620 and what would it take to implement these measures? If you do not support this legislation, why not and what alternatives does Treasury offer?

Question 4. Has Treasury estimated the savings that can result from improved debt collection efforts? How are agencies held accountable for increasing their collections and how do you intend to measure their performance?

Answer 1. Treasury has the knowledge and the understanding of credit management and debt collection necessary to carry out an effective credit management program, but lacks the resources, both personnel and equipment, necessary to act as efficiently and comprehensively as is needed to institute sound credit policies and practices.

Answer 2. Treasury is concentrating its efforts to improve credit management and debt collection in 3 major areas:

a. the development of credit policies, procedures, standards, and guidelines, including guidance on the use of available credit tools and techniques;

b. the development and implementation of credit tools and techniques, including the use of private collection agencies, IRS tax refund offset, and salary offset; and

c. agency assistance in the implementation of improved credit management practices and procedures.

Treasury has worked with the agencies to establish realistic performance goals and will work with the agencies to meet those goals.

Answer 3. Treasury appreciates the Senator's interest in improving Governmentwide credit management. In order to institutionalize sound credit practices and procedures, Treasury will need such Congressional support, including support for legislation to strengthen the credit management program. Treasury has not taken an official stand on S. 2620, but it is probable that Treasury would agree with its purpose, that of establishing sound credit management and debt collection, but would probably not agree that the use of specific credit policies and practices already articulated in regulation should be mandated through legislation. Given the variety of the Government's loan programs, it would seem that some discretion in determining the appropriate application of these policies and practices would be desirable in order to achieve maximum effectiveness. It is probable that Treasury would strongly support such measures as relating loan interest rates to market interest rates and measuring, as a cost of extending credit, the amount of the subsidies provided in many of the Government's programs. It is also probable that Treasury would support legislation which would provide a mechanism for measuring subsidies and would give Treasury legislative authority to undertake improvements in Federal agency credit management.

Answer 4. Treasury seeks to realize savings through the implementation of the Nine Point Plan, which includes such initiatives as using private collection agencies, IRS tax refund offset, salary offset, and reporting debts of credit reporting bureaus. The implementation of this plan should result in improving the quality of agencies portfolios. In addition to identifying specific performance goals for each of the Nine Points for the major credit agencies, Treasury and OMB have identified delinquency targets for the agencies to meet. These goals and targets, which will be published in the President's Management Improvement Plan, will serve as a measure of agency activity in debt collection and will be tracked over the course of the next year.

FINANCIAL MANAGEMENT SERVICE

Additional Committee Questions

USE OF SOCIAL SECURITY TRUST FUNDS TO REIMBURSE THE FINANCIAL MANAGEMENT SERVICE

Question. In the last Congress, an amendment was introduced to the Debt Ceiling Act which would have enabled the Social Security Trust Funds to directly reimburse the Financial Management Service for the cost of processing their benefit payments. I understand that

Senator Domenici supported this amendment. The amendment was approved in the Senate but dropped in conference.

Had this amendment been enacted into law, I understand that it would have saved FMS about $90 million in direct appropriations. Are there any plans within the Administration to support similar legislation, either free-standing or as part of Reconciliation or Debt Ceiling measures? (Currently, FMS gets reimbursements from Social Security but the reimbursements go directly into the Treasury -- not to FMS.)

Answer. The Financial Management Service (FMS) currently does not directly receive reimbursements from the Social Security trust fund for processing benefit payments, mailing checks, reconciling accounts, and handling claims. The Social Security Trust Fund is billed for these services and pays for them by transferring funds to the Treasury's General Fund. FMS, on the other hand, must go through the appropriations process to secure its funding for performing these operations for Social Security.

Approximately $90 million is now appropriated for providing services to Social Security. If the FMS budget were cut substantially, either the quality of the services furnished Social Security would be impacted or some other equally undersirable consequence would be the result. A possible solution to this dilemma is a simple accounting adjustment to enable direct reimbursement to FMS. In turn, the Service will eliminate a like amount from its appropriation requests. The amount paid by the Trust Fund would be the same in either case.

Secretary Baker supports this specific funding approach. The Administration does not have a general position on such issues but prefers to address each one individually. The Department supports, as it did last year, legislation which would allow the Social Security Trust Fund to reimburse directly FMS for the cost of handling Social Security payments rather than go through the appropriations process. Incidently, precisely such an arrangement has been used by the Railroad Retirement Account for over 30 years.

EFFECT OF CBO BASELINE LEVEL IN FY 1988

Question. You are asking for $30 million increase over your enacted FY 1987 appropriated level -- an increase of about 12.5%.

The Congressional Budget Office baseline estimate for your agency, including a small allowance for inflation, is $255 million. (Budget request is $270 million).

What will be the effect on FMS operations and activities if you were forced to live with the CBO base-

line figure for FY 1988? Tell us now and give us more detail for the record.

Answer. Approximately 95% of our budget is recurring and nondiscretionary. (This excludes any funds for initiatives.) Thus, approximately $257 million of the $270 million requested in FY 1988 is required for ongoing operations.

A reduction of $15 million from our FY 1988 resource requirements, coming on the heels of a $10.5 million cut in FY 1986 and an $11.0 million reduction in FY 1987, would prevent the Service from funding vital improvement projects critical to meeting the Service's expanding responsibilities as lead agency in the Federal Government for cash management, credit administration, debt collection and financial management systems.

Projected Governmentwide savings of $890 million for the period FY 1988 through FY 1992 would either be reduced, deferred, or forever lost.

In the early 1980's, Congress saw fit to invest and finance major improvements for the Financial Management Service. These improvements have enabled us to reduce our staffing dramatically at the same time we were expanding and improving financial services to the public and other Government agencies. However, due to G-R-H sequestrations in FY 1986 and reductions to our FY 1987 Appropriations Request, we did not receive funds for our urgent improvement efforts and our savings level declined. The combined 1986 - 1987 cuts of $21.5 million are being quickly followed by a major plunge in FMS generated savings (the FY 1987 drop is estimated at $300 million). Our FY 1988 budget request is essential to provide critical services to the public and continued Governmentwide financial improvements which help reduce the deficit.

FINANCIAL OPERATIONS SYSTEMS INTEGRITY

Question. By far the Financial Management Service's biggest program increase for FY 1988 is $6.8 million to continue your System 90 Financial Operations Systems Integrity program. This program is designed to assure the security and effectiveness of the Service's payment systems for the 1990's. What will be the total cost of this capital investment and when will we begin to realize the savings projected for the System 90 project?

Answer. The total investment cost of the System 90 project is estimated at $28 million spread over a 3 year system implementation cycle. The majority of the investment costs (approximately $16 million) will occur in FY 1989, with the balance being incurred in FY 1990. By the end of FY 1991, only normal operational costs will be associated with this initiative.

Savings from System 90 will begin to be realized in FY 1990, although full savings of $14 million annually will not be realized until all equipment is installed and operational in FY 1991. The entire investment will be recaptured in 2 years -- after that System 90 will make money for the Federal Government.

EQUIPMENT INCREASES

Question. The Financial Management Service's equipment budget increases rather dramatically in Fiscal Year 1988 -- from $3.5 million in FY 1987 to $9.2 million in FY 1988, an increase of 160%. Now I know that you are continuing with your System 90 program, but why should this Subcommittee approve such a huge percentage increase of equipment in just one year?

Answer. System 90 accounts for a very large percentage of the equipment budget increase. Equipment is needed to replace 15-20 year old computers (and even older software) in our Financial Centers. Although the operational and financial management savings are substantial ($14 million each year after installation), the compelling reason we must act now to replace these obsolete systems is risk. These are the computer systems we depend upon to make 500 million Social Security payments and 250 million other Government payments each year and given their age, we can no longer have a reasonable level of confidence in their reliability.

In additon, the new technology will allow us to increase the security of our payment process through such techniques as electronic certification, message authentication, and enhanced controls.

Due to an $11 million cut in FY 1987, the Service's equipment budget was the lowest since FY 1982. Our FY 1987 budget was cut to the absolute minimum required to maintain operations.

Another major portion of the FY 1988 equipment budget is for the purchase of mass storage equipment that will provide agencies such as the Social Security Administration, the Veterans Administration, and the Railroad Retirement Board, and most importantly their beneficiaries, with more responsive service on check claims. The annual lease cost is approximately 50% of the one-time purchase cost.

SECURITY PROGRAM

Question. The Financial Management Service's second largest program increase calls for $2.5 million more next year for security programs. Apparently, GAO and Inspector General reports have noted the potential vulnerability of your payment systems and other Service programs. How does this program differ from your Systems 90 systems integrity

program; what will be the total cost to secure your systems; and what will be the overall savings realized by the Service, if any?

Answer. The security portion of the Systems 90 initiative is designed to correct security weaknesses in the payment and claims system by replacing outmoded systems with modern technology. The Servicewide Security Program encompasses a much broader range of security activities throughout the Service, not only in the payments and claims systems. These activities involve physical, communications, ADP, and personnel-related security enhancements including:

- installing card access systems in Service facilities to control personnel entry;
- acquiring additional contract guard protection at headquarters and the RFCs;
- continuing and expanding a Risk Management Program including inspections to ensure compliance with security directives;
- installing computer security software on all operating systems to audit and restrict processing; and,
- providing security training and awareness programs to all employees.

Given the nature of our business, the Security Program must receive continuous emphasis and it is difficult to arrive at a total cost for the program. The Service expects to incur $6.4 million in capital investment costs during FY 1988 and FY 1989, mainly for construction and the purchase of security equipment. Other components such as contract guard service, training, and the Risk Management Program will require additional funds in FY 1988 and FY 1989 and then continuous funding in the Service's base.

The benefits of this program cannot be reflected as quantifiable savings. These security enhancements will properly protect the billions of dollars of assets the Service handles annually and minimize its vulnerability to fraud or abuse. Without these enhancements, the potential loss of Federal funds due to unsecured checks, bonds and/or blank check stock, to say nothing of unprotected electronic funds transfers, is unlimited.

CONSULTING AND RELATED SERVICES

Question. Although this does not represent a lot of money, the Financial Management Service is asking for $413,000 for management and professional consulting services in fiscal year 1988, bringing your 1988

consulting and related service budget up more than three-fold over 1987 -- from $125,000 to $413,000. In these austere times, why do you need this large percentage increase in consulting services?

Answer. The Financial Management Service utilizes consulting services to acquire expertise not available within the Service. We direct such services toward a specific goal or task. We are results-oriented; these services are not for "studies," "opinions," etc. We expect a product to result from this investment. Specifically $50,000 are required in the development of software modules for agencies to use in conducting financial management self-assesments. The benefits of this program are enormous. For example, a reduction of only one-tenth of a percent in the property, inventory and deferrals growth rate of Government agencies over the next five years would save approximately $64,000,000 total. An additional $338,000 are needed to pay for software development as well as develop the system design needed by agencies when they must pick a tool or technique to solve a credit management or debt collection problem. The Government will realize approximately $497,000,000 from FY 1990 to FY 1992 from the implementation of these systems and techniques. Lastly, $25,000 are needed for the continued expertise of a system consultant, previously on loan and funded through the Private Sector Council, who is working on the redesign of the Government's twenty-five year old Central Accounting System.

PERFORMANCE IMPROVEMENT PROGRAMS

Question. The Financial Management Service (FMS) is also asking for an increase of $1,264,000 for so-called performance improvement programs that will supposedly ensure the effective and efficient delivery systems for payments and collections. Why do you need another $1,264,000 to improve performance at FMS? What will this money buy the taxpayer in FY 1988?

Answer. One program (at $871,000) will permit the Service to convert from a costly leasing method of acquiring computer mass storage devices for the Check Archival and Retrieval system to a more cost beneficial purchase method. FMS is required by law to maintain identifying data on every Government check issued for a period of six years and six months. At any given time we have between 4 and 4 1/2 billion records in our system, and very specialized data retrieval devices are required to do this effectively. The estimated annual lease cost is approximately 50% of the one-time purchase cost. This mass storage device will provide agencies and recipients of Federal payments, who rely on the Service for check services, with more responsive service on check claims.

This program will also increase the productivity and

performance of our personnel and computer hardware. We will extend office automation to the managerial and professional staff by establishing a "Service Bureau" (at $200,000) for unusual processing needs and by providing direct support to the Regional Financial Centers. This effort will help ensure the availability and sharing of standard microcomputer hardware, software and support services within the Service. The Capacity Management/Performance Management Program (at $193,000) will provide the Service with the means for expanding, measuring, evaluating and reporting on our computer systems performance and preventing or correcting performance problems on a day-to-day basis. This effort will minimize and defer expenditures for software upgrades and acquisition by using capabilities more efficiently.

TRAVEL INCREASES

Question. The Financial Management Service's travel budget has enjoyed substantial growth since Fiscal Year 1986 -- increasing from $652,000 to $1,322,000 in FY 1988. That represents an increase of 103%. Your 1988 increase for travel is 20%. Why does FMS need these large travel increases? It doesn't appear that your operations are travel-intensive.

Answer. The travel increase you referenced in the FMS budget request (a total $220,000 over our FY 1987 amount) is associated with two of the Service's initiatives -- Security ($122,000) and Reform '88 ($98,000). Although the Service is not a travel-intensive operation, a minimal amount of travel is required to carry out our mission as well as accomplish the objectives associated with these two initiatives. It should be noted that the Service will go where the savings opportunities are by traveling to the agency field locations which ultimately results in big dollar savings and recoveries.

The requested funds will allow visits to the Regional Financial Centers to conduct risk management assessments, compliance inspections, and security and awareness programs. Recently enacted legislation, OMB requirements, as well as prudent management, all require periodic risk management assessments, system security reviews, and various compliance inspections of financial systems and computer operations. Because FMS has seven financial centers located across the country, which make 760 million payments (totaling well over $600 billion) each year, our security related travel costs have risen substantially. These funds are also to cover the cost associated with the Service's increasing responsibilities as the lead agency for cash management and credit administration/debt collection.

SUPPLEMENTAL, 1987/FERS/PAY

Question. What will be the effect on your operations if you do not receive your requested supplementals? Tell us now and provide a detailed analysis for the record.

Answer. Without the $1.4 million for pay raises; $1.2 million for FERS; and a program supplemental of $1.9 million to complete our headquarters relocation to the Liberty Loan Building the Service will have to take drastic measures to absorb this overall request of $4.5 million. Specifically, the Service will have to:

- Reduce the staffing and contractual requirements to provide guidance and technical assistance to agencies on cash, credit management and debt collection issues. This action will result in lost interest savings of approximately $650 million in FY 1987.

- Eliminate the purchase of hardware, software and consultation services for two central data bases, staffing for technical and policy issues, and enhancements to the Government On-Line Accounting Link System (GOALS) -- all part of the Financial Information Utilization program. This would have resulted in a cumulative savings of $330 million in agencies from FY 1987 to FY 1991.

- Eliminate funds necessary to implement Message Authentication, critical to ensuring that all payment transactions are proper for payment as well as protected from tampering.

ORIGINAL REQUEST TO OMB

Question: What was youroriginal request to the Office of Management and Budget; Where did they cut you back and why? Be specific.

Answer:

	Original Request to OMB		OMB Allowance		Difference	
	FTE	TOTALS	FTE	TOTALS	FTE	TOTALS
FY 1988 Request:						
Salaries and Expenses Appropriation...	2,318	209,912	2,306	270,004		
Postage Appropriation.....	--	80,074	--	-- _1/		
Total FMS Appropriation.....	2,318	289,986	2,306	270,004		
FY 1987 Request.....	2,294	251,117	2,294	244,617		
FY 1988 Request.....	2,318	289,986	2,306	270,004		
Total Change.....	(24)	(38,869)	(12)	(25,387)		
Non-Recurring Costs.....	0	(6,926)	0	(3,718)		
Maintaining Current Level Items.....	0	11,938	0	16,485 _2/		
Program Increases.....	24	33,857	12	12,620		
* Financial Operations Systems Integrity:	0	17,430	0	6,800	0	(10,630)
RFC Upgrade	0	12,070	0	6,000	0	(6,070)
RFC Telecommunication Network	0	3,380	0	0	0	(3,380)
Message Authentication/Cert & Data Encrypt	0	1,980	0	800	0	(1,180)
* Security:	3	5,185	2	2,500	(1)	(2,685)
Servicewide Security	3	1,635	2	1,100	(1)	(535)
Payments Security	0	3,550	0	1,400	0	(2,150)
* Mass Storage Equipment	0	871	0	871	0	0
* Financial Information Systems Program:	5	1,770	2	750	(3)	(1,020)
Financial Information Analysis	0	400	0	250	0	(150)
Central Accounting System Modernization	0	680	0	500	0	(180)
Lead Agency for Financial Management Syst.	3	140	0	0	(3)	(140)
Reducing Regulatory Burden	0	500	0	0	0	(500)
Investment Management	2	50	2	0	0	(50)
* Credit Administration:	7	1,066	7	816	0	(250)
Credit Administration Support	2	850	2	600	0	(250)
Credit Administration Enhancements	5	216	5	216	0	0
* Cash Management Improvement Program:	9	2,001	1	250	(8)	(1,751)
State/Federal Equity System	8	1,751	0	0	(8)	(1,751)
Cash Management Information Impact Module	0	215	0	215	0	0
Cash Management Forecasting	1	35	1	35	0	0
* Direct Deposit Marketing With Check Inserts	0	240	0	240	0	0
* Human Resource Utilization	0	170	0	0	0	(170)
* Systematic Replacement of Obsolete Equipment and Improved Utilization of Facilities:	0	3,986	0	0	0	(3,986)
San Francisco RFC Move	0	580	0	0	0	(580)
RFC Enhancements	0	2,603	0	0	0	(2,603)
RFC Telephone Equipment	0	803	0	0	0	(803)
* Collateral Management	0	158	0	0	0	(158)
* Automated Office Productivity Improvements:	0	612	0	200	0	(412)
The User Support Center	0	200	0	200	0	0
Local Area Network	0	412	0	0	0	(412)

	Original Request to OMB		OMB Allowance		Difference	
	FTE	TOTALS	FTE	TOTALS	FTE	TOTALS
* Performance Improvement Programs:	0	368	0	193	0	(175)
Capacity Mgmt/Perf. Measurement Program	0	193	0	193	0	0
Fourth Generation Languages	0	175	0	0	0	(175)
TOTAL	24	33,857	12	12,620	(12)	(21,237)

_1/ OMB Allowance does not provide for a separate appropriation account for postage -- does not allow for protection of postage expenses in the event of another across-the-board reduction.

_2/ * Our original request to OMB did not include FERS/Payroll Increases of $3.8 million.

* Maintaining Current Level Items (Increases) are broken down as follows:

MCLs	$12,687
FERS/Payroll Increases	3,798
	$16,485

PRESIDENT'S NEW CREDIT PROGRAM

Question. I understand that the Treasury Department has been given the lead role in the President's debt collection and credit management program that will be submitted to Congress shortly. The President's program will be a nine-point effort to use automated systems to service and collect loans; utilize debt collection tools; and pre-screen loan applicants. As you know, last year I introduced S. 2620, a bill that would do many of these same things.

As Treasury's designated agent for the President's new program, can you tell us how much of the $69 billion in delinquent Government debt will be collected in FY 1988 under the new program? How does that compare to last year?

Answer. The $69 billion figure cited for total Government delinquencies represents both tax and non-tax debt. The collection of tax debt -- representing some $42 billion of the total $69 billion -- is not covered under the Debt Collection Act of 1982, as amended, with IRS exercising its own rights and authorities to collect delinquent tax debt. The remainder -- $26.3 billion of non-tax debt -- largely represents the amount subject to collection under the Debt Collection Act of 1982.

Treasury is focusing on reducing this $26.3 billion in delinquencies through the use of private debt collection agencies, IRS tax refund offset, and write-offs. The rate of increase in delinquencies has already slowed from a FY 1984 - FY 1985 increase of 18% to a FY 1985 - FY 1986 increase of 10%. Treasury intends,

within the next two years, to reverse the increasing trend altogether and to effect an absolute decrease in the level of delinquencies.

BUREAU OF THE PUBLIC DEBT

Additional Committee Questions

PERSONNEL BENEFITS

Your personnel benefits increased by 37% over fiscal 1987 levels, despite a reduction of 63 permanent positions below current levels.

Question. Why are your personnel benefits increasing so dramatically when your permanent staffing is dropping sharply?

Answer. The Bureau's personnel benefits are increasing because of the new Federal Employment Retirement System (FERS) costs. The total increase of $2,870,000 in personnel benefits is the net of the increase in FERS and employee benefits, and the productivity savings resulting from implementation of TREASURY DIRECT. Total FERS costs are $3,666,000 in FY 1988 for the Bureau of the Public Debt and the U.S. Savings Bond Division.

SAVINGS BOND WORKLOAD INCREASE

You say in your justifications that because Savings Bond sales are going so well you will need another $3.1 million and 15 full time workyears next year to keep pace with the savings bond sales increase. I'm not sure that I would fully agree that just because savings bond sales increase, you need more staff.

Question. What would be the effect on Savings Bond sales and processing if we were to deny your request increase of $3.1 million?

Answer. Mr. Chairman, $350 thousand of that amount is for Bureau Operations. The balance is for agent fees and postage costs. Processing and accounting for savings securities includes the issuance, servicing, and retirement of those securities. Series EE savings bonds constitute a major workload for the Bureau. The increasing trend established over the last four years for savings bond sales has continued in FY 87 and is expected to continue on into FY 88. The savings bond workload increase relates directly to increased workloads expected in FY 1988.

These increases necessitate an increase of $3.1 million. Included in the $3.1 million is funding for the following (in thousands):

Issuing Agent Fees.....	$1,350
Paying Agent Fees.....	680
Postage Cost.....	720
15 Full-time work-years.....	350
Total.....	$3,100

The higher cost incurred by the issuing and paying agents is directly related to processing the workload increase. The higher postage cost is directly related to the increase in the number of bonds mailed based on the increase in the number of bonds sold. The additional 15 full-time work-years is required for Bureau operations to fully verify the accuracy of registration data submitted on increased bond sales.

There would be a negative effect on the savings bond processing and possibly sales if the increase of $3.1 million is denied. Workloads related to Savings bond sales and redemptions will continue to grow regardless of reductions in funding. The Bureau would be unable to reimburse the issuing and paying agents and the U. S. Postal Service for cost associated with the workload increase and we would be unable to fully verify the accuracy of registration data submitted on bond sales. In the absence of such verification, thousands of claims submitted by persons regarding lost, stolen or destroyed bonds either could not be honored or would require significant processing time. We would be unable to replace such bonds because of our inability to locate pertinent sales records. This could cause a serious problem for the bondowners.

PUBLIC DEBT ACCOUNTING SYSTEM/DUPLICATION WITH FMS

I understand that the Bureau is spending millions of dollars on developing a new public debt accounting system that will better coordinate public debt transactions including cash transactions; interest payments; and securities accountability. A recent Treasury Inspector General study apparently stated that the functions, relating to government trust fund accounts, performed by the Bureau and the Financial Management Service were duplicative.

Question: Will the new public debt accounting system eliminate this duplication and if not, what steps are you taking to address the I.G.'s concerns?

Answer: The Public Debt Accounting and Reporting System (PARS) will eliminate a duplication of effort in processing government trust fund transactions. The PARS system will allow for centralized maintenance of government trust fund records which can be accessed by both the Financial Management Service (FMS) and the

Bureau of the Public Debt (BPD). The new PARS system will eliminate the Bureau's current responsibility to maintain detailed government trust fund records which is duplication of records maintained by FMS.

Question: How much have you spent to date on this system; how much will you spend in FY 1988; and how much will be spent in the future to complete the system?

Answer: Through Fiscal Year 1987 our Information Systems Plan shows that we have spent $2.2 million for the public debt accounting and reporting system. To complete the system, we estimate that we will spend an additional $2.6 million for a total of $4.8 million.

SUPPLEMENTALS: EFFECT ON OPERATIONS

Like the Customs Service and other agencies covered by this Subcommittee, the Bureau of the Public Debt will receive no pay or FERS supplemental for fiscal year 1987. This will force the Bureau to absorb these mandatory costs.

Question: How much will you have to absorb and what effect will that have on your current year operations? Be specific.

Answer: It is estimated that the Bureau will have to absorb a total of $2,006,000 to cover these mandatory costs. Several adjustments have been made, and are included within changes proposed on Page PD-1 of the Bureau's budget presentation to the Congress. The most important of these are:

- A revised equipment purchasing plan, primarily resulting from the Bureau's FY 1986 accelerated purchase of its new mainframe computer. As we informed the Committee at that time, early purchase would result in a lower total cost. Some of those savings are now being identified for supporting pay and FERS costs.

- Slightly more conservative assumptions are being made about the average fee for paying Savings Bonds issuing agents.

- As the fiscal year progresses, any further adjustments needed will be handled by restricting recurring expenditures in some categories to what is absolutely essential.

U.S. MINT

Additional Committee Questions

Use of Mint Profits to Finance Operations

You indicate in your opening statement that the Mint makes rather substantial profits for the Federal Government as a result of the sale of coins for domestic circulation; the sale of commemorative coins, such as the Statue of Liberty coins; and other specialty coin sets and catalogs. It appears that the Mint realizes well over $466 million in profits annually from sales of coins. Your budget is about $47 million.

Senator DeCONCINI. Has legislation ever been sent to Congress that would allow you to pay for your salaries and expenses out of the profits from coin sales? A fund could be set up which holds the coin profits, and the Appropriations Committee could maintain control over your operations through annual budget authority authorizations for the Mint to spend out of that fund for its operations, but no tax dollars would be involved. Why wouldn't that make sense in these tough budget times?

Mrs. POPE. The United States Mint's operations, are presently financed through an annual appropriation received from the Congress. This is mandated by Chapter 51, Title 31 U.S.C.

In the late 1960's and early 1970's, the Mint on several occasions attempted to obtain Congressional approval to permit the operations of the Mint to be financed from an operating fund into which revenues of the Mint from coinage and other sources would be paid and from which, in general, all expenditures of the Mint would be paid. The excess income of the fund would be transferred to the General Fund of the Treasury.

The General Accounting Office made a proposal for the establishment of an operating fund in their audit report for fiscal years 1956-58. They felt it would provide greater flexibility in planning coin production, simplifying financing procedures and improving financial reporting. They repeated their recommendation again in 1967.

If this change were made, the Mint would continue to make full disclosure of its income and operating costs on a businesslike basis to the Congress as is presently done by the Bureau of Engraving and Printing.

Asbestos Removal Request

You are asking for $1.5 million for asbestos removal from Mint facilities, particularly in Denver. I also understand that you reprogrammed $500,000 out of FY 1987 funds to start this asbestos removal project. As you know, GSA is supposed to provide repair and alteration projects such as these out of the Federal Buildings Fund -- a Fund to which the Mint pays user charges or rent.

Senator DeCONCINI. Why should we provide you with a direct appropriation to remove the asbestos from the Denver and other Mint facilities, when your real avenue should be the GSA Federal Building Fund, repair and alteration program? Aren't you setting a precedent here by bypassing GSA?

Mrs. POPE. All of the Mint's production facilities are Treasury/Mint owned and not rented through the General Services Administration. We are required to maintain our own buildings and therefore funding can not be requested through the GSA Federal Building Fund. We must request these funds through the appropriation process.

Consulting Services

You are asking for $325,000 for management and support consultant services for research and development -- up about 14%.

Senator DeCONCINI. Why should we approve this amount of money for consulting and related services next year? After all the deficit is made up of thousands of small items such as this one.

Mrs. POPE. All of these funds are for the Mint's Research and Development Program. The contracts to be let with firms in the private sector are really not for consulting services. They are engineering services required to augment our engineering capabilities. Our research and development program is designed to not only develop up-to-date and modern methods of operations but at the same time develop the most cost effective mode of operation. We are realizing some initial successes in these areas with our coin Press Feed System, Automated Die Manufacturing and Count, Bag and Stack R&D projects. We believe the potential for similar successes exist in our proposed 1988 projects.

Other Services

Your "other services" budget account shows an increase of $1.6 million over 1987 levels -- an increase of $56%.

Senator DeCONCINI. Why this large percentage increase for "Other Services" next year?

Mrs. POPE. Included in the "Other Services" account are increases of $1.5 million for asbestos removal and $.100 million for engineering contractural services on Research and Development Projects.

Productivity Savings

Your budget justifications indicate that you will be able to save $530,000 and 20 average positions as a result of "productivity improvements related to coin production."

Senator DeCONCINI. Can you explain to the Subcommittee exactly what the Mint is doing to achieve these substantial savings next year?

Mrs. POPE. The productivity savings of $530,000 and 20 average positions are associated with the implementation of engineered work standards primarily in the areas of upsetting, riddling, count and packaging.

Research and Development

The Mint is requesting nearly $1 million for research and development in fiscal year 1988 -- a small reduction below current levels.

Senator DeCONCINI. At a time when we are trying to hold down spending, why should we approve $1 million for R&D in fiscal year 1988? What would be the effect on the Mint's operations if the Committee were to deny the Mint this amount of money next year?

Mrs. POPE. Most of the production equipment at the Mint facilities is not state-of-the art in terms of output efficiency. In FY 1985-1986, the Mint began several Research and Development projects with the view of enhancing the productivity of our production equipment and processes. The projects undertaken are really development efforts and not research. About 2/3 of the requested funds are for equipment to implement the benefits, in terms of productivity gains, from the R&D projects. Examples of successful projects are the Coin Press Feed System and Die Shop Automation. The Coin Press Feed System is now in production testing and if testing is successful, we except a productivity increase of about 25% on each coin press when system is installed. The R&D work on Die Shop Automation has resulted in the purchase of modern computer numerically controlled equipment which will result in a 50% increase in die shop capability. Significant progress has been made in our attempt to automate our coin counting, bagging and stacking operations. This is a fertile area for increased efficiencies primarily because filled coin bags are relatively heavy. An automated process will reduce both the fatigue factor in the work and the potential for back inquiries to our employees. Without funding, the Mint will be unable to implement the three promising efforts already begun, and to initiate the three new projects in FY 1988.

CBO Baseline

According to the Congressional Budget Office, their baseline estimate for the United States Mint would be $46 million for fiscal 1988. This essentially represents the current level plus an inflation allowance.

Senator DeCONCINI. What would be the effect on your operations if we were to hold you to this level of appropriations for fiscal year 1988? Be specific and tell us what you would not be able to do.

Mrs. POPE. The Mint's FY 1988 budget request is $46.511 million and the CBO baseline estimate is $46 million, therefore the budget request would be reduced by $511,000. This reduction would be apportioned to coin production, asbestos removal and equipment.

Original Request to OMB

The United States Mint is requesting a total appropriation of $46,511,000 and 901 average positions.

Senator DeCONCINI. What was your original request to OMB for FY 1988; where did they cut you back; and why? Be specific and provide details for the record.

Mrs. POPE. The Mint's original request to OMB for FY 1988 was $45.860 million. The Mint also requested $801,000 for cost-of-living increases and $1.491 million for the Federal Employee Retirement System (FERS). Only $1.491 million for FERS was allowed by OMB. In addition, OMB reduced the Mint's budget request by $840,000 for inflationary items. See details below:

FY 1988 Original OMB Submission	$45.860 million
Cost-of-Living Increases	+ .801 million
Federal Employees Retirement System	+1.491 million
Cost-of-Living Increases Disallowed	- .801 million
Inflation Items Disallowed	- .840 million
FY 1988 Congressional Request	$46.511 million

INTERNAL REVENUE SERVICE

STATEMENT OF LAWRENCE B. GIBBS, COMMISSIONER

ACCOMPANIED BY:

JEAN OWENS, DEPUTY CHIEF COUNSEL
PHILIP E. COATES, ASSOCIATE COMMISSIONER, OPERATIONS
M. EDDIE HEIRONIMUS, ASSOCIATE COMMISSIONER, DATA PROCESSING
STEPHEN E. TAYLOR, DIRECTOR, FINANCE DIVISION
JILL E. KENT, DEPUTY ASSISTANT SECRETARY, FINANCE AND MANAGEMENT

PREPARED STATEMENT

Senator DECONCINI. We will now turn to Lawrence B. Gibbs, Commissioner of the Internal Revenue Service. He will be testifying on his 1988 budget.

Welcome to this soft, easy committee. Senator Domenici is the ranking member here and I am very pleased that he is here. We have some hard questions and we have some easy questions for you. And before we do that we will let you introduce your folks here to help answer all of those questions, I am sure, and then you may proceed with a summary of your statement. We will put your full statement in the record without objection.

[The statement follows:]

STATEMENT OF LAWRENCE B. GIBBS

I AM PLEASED TO APPEAR HERE TODAY TO PRESENT THE SERVICE'S FY 1988 BUDGET AND FY 1987 SUPPLEMENTAL REQUEST. IN MY TESTIMONY, I WILL COVER THE HIGHLIGHTS OF OUR REQUEST AND SHARE WITH YOU SOME THOUGHTS ON THE STRUCTURE AND STATUS OF TAX ADMINISTRATION.

WITH ME TODAY ARE OUR CHIEF COUNSEL WILL NELSON, WHO IS APPEARING BEFORE THE COMMITTEE FOR THE FIRST TIME; OUR DEPUTY COMMISSIONER JIM OWENS; ASSOCIATE COMMISSIONERS PHIL COATES FOR OPERATIONS AND EDDIE HEIRONIMUS FOR DATA PROCESSING; AND OUR FINANCE DIRECTOR STEVE TAYLOR. WE WILL BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE AT THE CONCLUSION OF MY TESTIMONY.

OVERVIEW

ALTHOUGH THIS IS MY FIRST APPEARANCE BEFORE THIS SUBCOMMITTEE AS COMMISSIONER, I AM AWARE OF THE IMPORTANT ROLE YOU AND YOUR PREDECESSORS HAVE PLAYED IN TAX ADMINISTRATION. DURING MY FIRST TOUR WITH IRS, BETWEEN 1972 AND 1975, I SAW THE IMPACT OF THIS SUBCOMMITTEE'S SUPPORT IN THE CHIEF COUNSEL AND TECHNICAL AREAS IN WHICH I SERVED. NOW AS COMMISSIONER, I AM HERE SEEKING YOUR ASSISTANCE FOR THE ENTIRE IRS. WE NEED YOUR CONTINUED SUPPORT IF WE ARE TO MEET THE MANY CHALLENGES FACING US. AS WE CONTINUE TO WORK TOGETHER TO MAKE THE TAX ADMINISTRATION SYSTEM AS GOOD AS IT CAN BE, I LOOK FORWARD TO A CANDID AND PRODUCTIVE DIALOGUE WITH YOU, MR. CHAIRMAN, AND THE SUBCOMMITTEE MEMBERS AND STAFF.

Issues Facing IRS

THERE ARE THREE BROAD ISSUES FACING THE IRS, AND I WOULD LIKE TO COVER EACH OF THEM BRIEFLY BEFORE GETTING INTO THE SPECIFICS OF OUR REQUEST. THESE ISSUES ARE: (1) THE IRS' ROLE AS THE REVENUE CENTER OF THE GOVERNMENT; (2) THE NEED FOR BALANCE BETWEEN COMPLIANCE ACTIVITIES AND SERVICE TO THE PUBLIC; AND (3) THE INCREASING IMPORTANCE OF AUTOMATION IN MAKING THE IRS BOTH MORE RESPONSIVE TO TAXPAYERS AND BETTER ABLE TO ENFORCE THE TAX LAWS.

Paying for Government

I BELIEVE IT GOES WITHOUT SAYING THAT WHILE TAX ADMINISTRATION MAY BE ONE OF THE LESS POPULAR FUNCTIONS OF GOVERNMENT, IT IS ALSO ONE OF THE MOST IMPORTANT. IT GENERATES THE REVENUES UPON WHICH THE OTHER FUNCTIONS OF GOVERNMENT DEPEND. OURS IS AN EFFICIENT TAX SYSTEM OVERALL, COSTING LAST YEAR ABOUT 49 CENTS PER $100 COLLECTED.

IT CAN BE A MORE EFFECTIVE SYSTEM. THROUGH ADDITIONAL INVESTMENT IN COMPLIANCE ACTIVITIES PROGRAMS THAT ULIMATELY COLLECT TAX FROM THOSE WHO ARE NOT PAYING THEIR FAIR SHARE, WE NOT ONLY INCREASE REVENUE; WE ALSO MAKE THE SYSTEM A FAIRER ONE.

COST-BENEFIT -- ADDITIONAL REVENUE FOR THE BUDGET DOLLAR INVESTED -- HAS BEEN A CORNERSTONE OF IRS' BUDGET REQUESTS. OVER THE YEARS, THE SERVICE HAS DONE ANALYSES AND DEVELOPED MODELS TO VERIFY AND PROJECT THE COST-BENEFIT RELATIONSHIP OF THE ANNUAL REVENUES FLOWING FROM A SPECIFIC INVESTMENT IN IRS ACTIVITIES. REVENUE FROM COMPLIANCE ACTIVITIES HAS MORE THAN DOUBLED IN THE LAST FEW YEARS. WE HAVE MET AND EXCEEDED

REVENUE ESTIMATES ON PRIOR INITIATIVES. OVER THE YEARS, ACADEMICIANS, JOURNALISTS AND OTHERS OUTSIDE THE GOVERNMENT HAVE ENDORSED THIS CONCEPT TO SUPPORT THE NEED FOR ADEQUATE AND STABLE IRS FUNDING. IN ALL THESE AREAS, THE COST-BENEFIT INHERENT IN IRS BUDGETS HAS BEEN WELL-RECOGNIZED, AND THE DETAILS OF OUR BUDGET REQUEST, WHICH I WILL COVER SHORTLY, SHOW WHY.

IN SUMMARY, FURTHER INVESTMENTS IN TAX ADMINISTRATION CAN GENERATE ADDITIONAL REVENUE TO HELP SOLVE THE DEFICIT PROBLEM. THAT IS WHAT OUR BUDGET FOR 1988 PROPOSES. WHILE IT MAY NOT BE POSSIBLE TO COLLECT EVERY LAST DOLLAR OF TAX DUE -- AND EVEN LESS LIKELY THAT IRS WOULD OR SHOULD BE FUNDED TO DO THAT -- DOESN'T IT MAKE SENSE TO COLLECT AS MUCH AS POSSIBLE OF THE AMOUNTS WE KNOW ARE DUE AND OWING NOW, FROM THOSE WHO HAVE NOT COMPLIED WITH THEIR TAX OBLIGATIONS?

A BALANCED APPROACH

EVEN AS WE SEEK TO MORE EFFECTIVELY ENFORCE THE TAX LAWS, WE MUST BE MORE SENSITIVE TO THE NEEDS OF TAXPAYERS. I AM FIRMLY CONVINCED THAT A BALANCED APPROACH IS ESSENTIAL TO SOUND TAX ADMINISTRATION IN THE LONG RUN. IN OTHER WORDS, AT THE SAME TIME WE ARE ATTEMPTING TO COLLECT ADDITIONAL REVENUE FROM THOSE WHO ARE NOT COMPLYING, WE SHOULD BE DEALING WITH THEM IN A FAIR AND PROFESSIONAL WAY. WE ALSO SHOULD BE PROVIDING BETTER SERVICE AND ASSISTANCE TO HELP THOSE WHO ARE TRYING TO COMPLY WITH AN EVER-CHANGING TAX LAW. IN FACT, NOT BEING ATTENTIVE TO THE IMPORTANCE OF SERVICE TO THE PUBLIC MAY ACTUALLY ERODE THE CONFIDENCE AND RESPECT TAXPAYERS HAVE IN OUR VOLUNTARY COMPLIANCE SYSTEM.

WE ARE PUTTING GREATER EMPHASIS ON THE QUALITY OF OUR SERVICE TO TAXPAYERS -- IN THE TIME AND EFFORTS WE TAKE TO MAKE SURE THAT THOSE CALLING OR WRITING US GET CORRECT INFORMATION ABOUT THEIR ACCOUNTS AND RIGHT ANSWERS TO THEIR TAX FILING QUESTIONS.

WHILE WE BELIEVE THESE TWO SIDES OF THE TAX ADMINISTRATION EQUATION -- COMPLIANCE AND SERVICE TO THE PUBLIC -- ARE RELATED IN A NUMBER OF WAYS, IT IS DIFFICULT TO PROVE. THE SERVICE IN THE PAST HAS BEEN CRITICIZED FOR BEING UNABLE TO DEMONSTRATE EMPIRICALLY THAT PROVIDING TAXPAYER SERVICE RESULTS IN MORE ACCURATE REPORTING OF LIABILITY. MY REACTION, MR. CHAIRMAN, IS THAT A LACK OF STATISTICAL EVIDENCE DOESN'T MAKE THE PROPOSITION ANY LESS TRUE. THERE ARE SOME THINGS THAT COMMON SENSE TELLS US ARE TRUE THAT WE SHOULD BE WILLING TO ACCEPT.

LET ME GIVE YOU WHAT IS PERHAPS THE CLASSIC EXAMPLE OF HOW COMPLIANCE AND SERVICE RELATE TO EACH OTHER. IMAGINE YOU ARE A TAXPAYER WORKING ON YOUR 1986 TAX RETURN. YOU COME UPON SOMETHING IN THE RETURN YOU DON'T UNDERSTAND, AND CANNOT FIND A SATISFACTORY ANSWER IN THE INSTRUCTIONS IN THE TAX PACKAGE OR IN ONE OF OUR PUBLICATIONS. YOU THEN DECIDE TO CALL OR VISIT AN IRS OFFICE FOR ASSISTANCE, ONLY TO FIND THAT -- THE TELEPHONE LINES ARE BUSY; THERE'S A ONE-HOUR WAIT FOR WALK-IN ASSISTANCE; OR, THE ASSISTOR YOU FINALLY DEAL WITH IS UNABLE TO ANSWER YOUR QUESTION. WHAT DO YOU THINK YOUR REACTION WILL BE? IF WE'RE LUCKY, YOU'LL PERSIST UNTIL YOU GET AN UNDERSTANDABLE, CORRECT ANSWER. IF WE'RE UNLUCKY, YOU'LL GO AHEAD AND DECIDE THE QUESTION IN YOUR FAVOR -- WHICH MAY OR MAY NOT BE CORRECT.

WHAT THIS EXAMPLE TELLS US IS THAT, TO THE EXTENT, WE DO NOT OR CANNOT DELIVER AN APPROPRIATE LEVEL OF SERVICE TO OUR CUSTOMERS, THE AMERICAN TAXPAYERS, WE ARE CONTRIBUTING DIRECTLY TO POTENTIAL NONCOMPLIANCE AND REVENUE LOSS. THE COMPLEXITY OF OUR TAX LAWS MIRRORS THE COMPLEXITY OF OUR NATION'S ECONOMY AND SOCIETY. AS TAXPAYERS ATTEMPT TO DEAL WITH THIS COMPLEXITY IN THE CONTEXT OF THEIR PERSONAL TAX SITUATIONS, WE MUST BE WILLING AND ABLE TO ASSIST THEM. FOR THE LONG TERM, THEREFORE, WE NEED TO ASSURE A BALANCE AMONG OUR COMPLIANCE AND SERVICE PROGRAMS SO THAT WE ARE PART OF THE SOLUTION AND NOT PART OF THE PROBLEM.

I AM CERTAIN THAT EVERY MEMBER OF THIS SUBCOMMITTEE HAS HAD COMPLAINTS FROM CONSTITUENTS ABOUT SHORTCOMINGS IN THE IRS SERVICE LEVELS, AND WE ARE AWARE THAT THESE THINGS HAPPEN DESPITE OUR BEST EFFORTS. I PERSONALLY BELIEVE IT IS IMPORTANT THAT WHEN THESE THINGS DO HAPPEN, WE AT THE IRS ATTEMPT TO ADDRESS THEM PROMPTLY, FAIRLY, AND STRAIGHTFORWARDLY. OUR RECENT EXPERIENCE WITH THE FORM W-4 IS A CASE IN POINT. ALTHOUGH OUR INITIAL FORM W-4 WAS RESPONSIVE TO THE CONGRESSIONAL REQUEST FOR A MORE ACCURATE FORM, IT WAS ALSO A MORE COMPUTATIONALLY COMPLEX FORM. WHEN THE AMERICAN PUBLIC AND CONGRESS EXPRESSED CONCERN ABOUT THE FORM'S COMPLEXITY, WE AT IRS HAVE RESPONDED BY WORKING VERY HARD TO DEVELOP AN ALTERNATIVE WHICH, ALTHOUGH SOMEWHAT LESS PRECISE, SHOULD BE EASIER FOR THE PUBLIC TO UNDERSTAND AND USE.

A FEW WORDS ON THE SUBJECT OF QUALITY ARE APPROPRIATE HERE. THE SERVICE HAS NUMEROUS, ONGOING QUALITY IMPROVEMENT INITIATIVES DESIGNED TO ESTABLISH A CLIMATE WHERE QUALITY IS FIRST AMONG EQUALS, WITH MEETING DEADLINES AND COST. THESE QUALITY IMPROVEMENT PROJECTS ARE LAYING THE GROUNDWORK FOR OUR

COMMITMENT TO FIRST RATE TAX ADMINISTRATION, NOT ONLY TO ENSURE CONTINUED, INCREASED PRODUCTIVITY BUT ALSO TO PROVIDE BETTER SERVICE TO THE PUBLIC, WHETHER IT IS THE PUBLIC AT LARGE OR A SPECIFIC TAXPAYER.

OUR GOAL IS TO MEET THE AMERICAN TAXPAYER'S REASONABLE NEEDS IN ALL OF OUR ACTIVITIES, BY EMPHASIZING THAT EACH OF US AT IRS IS RESPONSIBLE EVERY DAY FOR MEETING THESE NEEDS BY DEALING WITH TAXPAYERS PROMPTLY, ACCURATELY, FAIRLY, PROFESSIONALLY, AND COURTEOUSLY. WE ARE STRESSING A WILLINGNESS TO MAKE AN EXTRA EFFORT IN OUR CONTACTS WITH THE PUBLIC.

EMERGENCE OF INFORMATION SYSTEMS

AT THIS POINT, I WOULD LIKE TO DISCUSS HOW THE SERVICE IS MAKING FULL USE OF ITS INFORMATION SYSTEMS TO ENHANCE OUR COMPLIANCE AND REVENUE GENERATING ACTIVITIES AND TO PROVIDE TAXPAYERS BETTER SERVICE.

ANY DISCUSSION OF IRS INFORMATION SYSTEMS MUST BEGIN WITH SOME DEFINITION OR EXPLANATION OF WHAT IS ENCOMPASSED BY THAT TERM. THIS IS MORE IMPORTANT THAN IT APPEARS AT FIRST GLANCE BECAUSE THE INTERNAL REVENUE SERVICE OF THE LATE 1980'S IS MORE AND MORE DEPENDENT ON -- AND BENEFITED BY -- AUTOMATED SYSTEMS TO ACCOMPLISH ITS MISSION EFFICIENTLY. THIS AUTOMATION TREND WILL AND CAN ONLY INCREASE INTO THE 1990'S AS THE VOLUMES OF WORK WE DEAL WITH CONTINUE TO GROW AND THE ADVANCES IN COMPUTER TECHNOLOGY PERMIT US TO BETTER DEAL WITH THESE CHALLENGES.

THE TERM "INFORMATION SYSTEMS" IS A BROAD ONE. IT

INCLUDES COMPUTER AND TELECOMMUNICATION SYSTEMS. IT INCLUDES OUR TEN SERVICE CENTERS, THE NATIONAL COMPUTER CENTER AT MARTINSBURG, WEST VIRGINIA, THE DETROIT DATA CENTER, OUR COMPUTER SERVICES ORGANIZATION, AND OUR TAX SYSTEM REDESIGN -- YET IT IS MUCH MORE.

INFORMATION SYSTEMS ARE A LARGE AND GROWING PART OF OUR COMPLIANCE ACTIVITIES TOO. THE AUTOMATED COLLECTION SYSTEM (ACS) IS PERHAPS THE BEST KNOWN EXAMPLE HERE, BUT THERE ARE A NUMBER OF OTHERS IN OPERATION OR PLANNED. FOR EXAMPLE, THE INFORMATION RETURNS PROGRAM, ALSO KNOWN AS THE DOCUMENT MATCHING PROGRAM, IS A COMPUTER-DRIVEN, MAJOR REVENUE PRODUCING PROGRAM. TWO OF OUR KEY COMPLIANCE FUNCTIONS, CHIEF COUNSEL LITIGATION AND APPEALS, HAVE AUTOMATED TRACKING SYSTEMS FOR CASE MANAGEMENT. THE AUTOMATED EXAMINATION SYSTEM (AES), WHICH WILL EVENTUALLY AUTOMATE ALMOST ALL AUDIT ACTIVITIES, BEGAN ITS INITIAL IMPLEMENTATION IN THE SPRING OF 1986. IN THE FALL OF 1988, WE WILL PILOT, IN THE SOUTHWEST REGION, THE INTEGRATED COLLECTION SYSTEM IN AN ATTEMPT TO LINK THE COLLECTION DATA BASES.

THERE ARE ADDITIONAL COMPUTER OPERATIONS, SUCH AS OFFICE AUTOMATION AND VARIOUS BUDGET AND PLANNING SYSTEMS, IN ALMOST ALL SERVICE AREAS, BUT I THINK THE POINT IS CLEAR: IRS IS IN THE COMPUTER AGE IN A BIG WAY.

INFORMATION SYSTEMS ARE ALSO BECOMING A MORE IMPORTANT PART OF OUR TAXPAYER ASSISTANCE ACTIVITIES. OUR ELECTRONIC FILING PROJECT IS AN INFORMATION SYSTEM, AS IS OUR MULTI-FUNCTIONAL TELEPHONE ANSWERING EQUIPMENT IN TAXPAYER SERVICE, AND OUR AUTOMATED SYSTEM TO ASSIST TAXPAYER AND PRACTITIONERS IN ORDERING AND OBTAINING TAX FORMS.

WE ARE ACUTELY AWARE THAT THE COMPUTER SYSTEMS WE HAVE NOW IN PLACE FOR PROCESSING TAX RETURN INFORMATION WILL NOT MEET WORKLOAD DEMANDS IN THE 1990'S AND BEYOND. WE'VE PUSHED OUR "MODEL T" THIS FAR, BUT IT SIMPLY CANNOT GO ON. THE OUTDATED DESIGN OF THE CURRENT COMPUTER SYSTEMS PLACES SIGNIFICANT CONSTRAINTS ON THE ABILITY OF THAT SYSTEM TO BEST SERVE TAXPAYERS. THIS IS NOT TO SAY THAT THE CURRENT SYSTEM DOES NOT PROVIDE ADEQUATE SERVICE TO TAXPAYERS -- IT DOES. BUT WE FEEL THAT THE AMERICAN TAXPAYERS DESERVE MUCH BETTER THAN MERELY ADEQUATE SERVICE, AND WE WANT TO DO EVERYTHING POSSIBLE TO SEE THAT THEY HAVE IT. THE CURRENT SYSTEM IS STILL HEAVILY DEPENDENT ON LABOR-INTENSIVE, MANUAL PROCESSES. IT HAS INORDINATELY LONG PROCESSING TIMEFRAMES. IT RELIES TOO HEAVILY ON THE RETRIEVAL OF PAPER DOCUMENTS. IT CONTAINS REDUNDANT OR INCONSISTENT INFORMATION WHICH IS DIFFICULT TO PERFECT AND CROSS-INDEX. IT HAS SOME SECURITY CONCERNS. IT DOES NOT PERMIT EFFICIENT SOFTWARE DEVELOPMENT AND MAINTENANCE.

CLEARLY, THE SERVICE MUST TAKE ADVANTAGE OF NEW TECHNOLOGIES TO MAINTAIN AND IMPROVE ITS ABILITY TO PROCESS RETURNS, MAKE REFUNDS TIMELY, AND MAINTAIN TAXPAYER ACCOUNTS ACCURATELY IN THE FACE OF AN INCREASING TAX ADMINISTRATION WORKLOAD. AS A RESULT, THE SERVICE HAS BEEN CONCENTRATING ON THE REDESIGN AND INTEGRATION OF ITS COMPUTERIZED INFORMATION SYSTEMS UNDER THE AUSPICES OF WHAT WE CALL TAX SYSTEM REDESIGN (TSR).

THE KEY DESIGN CONCEPT BEHIND TSR CALLS FOR AN INFORMATION SYSTEM THAT WILL PROVIDE RAPID ACCESS TO TAX INFORMATION, AS OPPOSED TO THE PRESENT SYSTEM WHICH IS BASED UPON A DATA BASE MAINTAINED ON THOUSANDS OF MAGNETIC TAPES

SEGMENTED IN VARIOUS MASTER FILES, SUCH AS OUR INDIVIDUAL MASTER FILE AND BUSINESS MASTER FILE. PROCESSING AND USING TAX INFORMATION AS IT IS CURRENTLY STORED FOR COMPLIANCE ACTIVITIES SUCH AS EXAMINATION AND COLLECTION IS A RELATIVELY SLOW PROCESS, AND IT IS DIFFICULT TO BRING ALL OF THE INFORMATION IRS HAS TOGETHER IN AN EFFECTIVE MANNER.

THE CENTRAL ELEMENT OF THIS NEW SYSTEM IS A "CORPORATE DATA BASE" THAT WILL ENCOMPASS ALL THE COMMONLY-USED INFORMATION FOR TAX ADMINISTRATION THROUGHOUT THE SERVICE. INFORMATION CONTAINED IN THE CORPORATE DATA BASE WILL INCLUDE TAXPAYER ACCOUNT INFORMATION, INFORMATION RETURNS FILES, PAPER DOCUMENT IMAGES, COMPREHENSIVE MANAGEMENT INFORMATION AND REFERENCE INFORMATION. THIS INFORMATION WILL BE AVAILABLE TO ALL OF THE SERVICE'S FUNCTIONS THROUGH A NATIONWIDE TELECOMMUNICATIONS NETWORK.

HOWEVER, EACH OF THE SERVICE FUNCTIONS INCLUDING COMPLIANCE FUNCTIONS (EXAMINATION, COLLECTION, CHIEF COUNSEL, APPEALS AND CRIMINAL INVESTIGATION) AND SERVICE FUNCTIONS (TAXPAYER SERVICE AND RETURNS PROCESSING) HAS SPECIALIZED INFORMATION NEEDS. THIS KIND OF INFORMATION WILL BE AVAILABLE IN WHAT WE CALL "DEPARTMENTAL DATA BASE," WHICH WILL PROVIDE RAPID ACCESS TO INFORMATION NEEDED BY FIELD PERSONNEL TO MAXIMIZE THEIR EFFICIENCY IN PERFORMING THEIR DUTIES. THIS DEPARTMENTAL INFORMATION WILL BE FULLY INTEGRATED WITH CORPORATE INFORMATION, INSTEAD OF CONTINUING THE INDEPENDENT SYSTEMS WE HAVE NOW. THE AUTOMATED PROJECTS I REVIEWED FOR YOU EARLIER SERVE AS THE FOUNDATION FOR THE DEPARTMENTAL DATA BASES IN THE TSR PLAN.

AS YOU CAN SEE, THE DESIGN OF THE SYSTEM IS WELL

UNDERWAY. IN FACT, WE EXPECT TO HAVE A COMPREHENSIVE MANAGEMENT PLAN DEVELOPED BY THE SPRING OF NEXT YEAR WHICH WILL LAY OUT IN DETAIL THE ACTIONS NECESSARY TO FULLY IMPLEMENT THE REDESIGNED SYSTEM I HAVE JUST DESCRIBED.

I AM SURE THAT WE WILL HAVE DISCUSSIONS ABOUT OUR REDESIGN OF THE TAX ADMINISTRATION SYSTEM, AND I WELCOME YOUR COMMENTS. I BELIEVE THE SERVICE IS MOVING AHEAD INTO THE FUTURE WITH CAREFUL PLANNING AND A CLEAR UNDERSTANDING OF WHAT WILL BE NEEDED TO MEET THE DEMANDS OF ADMINISTERING THE TAX LAWS IN THE 1990'S AND BEYOND.

NOW THAT I'VE GIVEN YOU MY THOUGHTS ON THE PROPER OBJECTIVES OF TAX ADMINISTRATION, I'D LIKE TO OUTLINE OUR SPECIFIC BUDGET NEEDS FOR THE CURRENT FISCAL YEAR AND 1988.

FY 1987 SUPPLEMENTAL

TWO NEW PIECES OF LEGISLATION, PASSED IN THE LAST CONGRESS, HAVE AN IMPORTANT EFFECT ON OUR BUDGET. THE FIRST IS THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986, PUBLIC LAW 99-335, WHICH ESTABLISHES A RETIREMENT SYSTEM FOR FEDERAL CIVILIAN EMPLOYEES HIRED AFTER DECEMBER 31, 1983, WHO ARE COVERED BY SOCIAL SECURITY, AND EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM WHO CHOOSE TO TRANSFER INTO THE NEW SYSTEM. THE ACT SET AN EFFECTIVE DATE OF JANUARY 1, 1987 FOR POST-1983 HIRES.

PRIOR TO ENACTMENT OF THE NEW RETIREMENT SYSTEM, IRS AS AN EMPLOYING AGENCY, MATCHED EMPLOYEE CONTRIBUTIONS--7 PERCENT OF BASIC PAY FOR MOST EMPLOYEES AND 7.5 PERCENT FOR LAW ENFORCEMENT OFFICERS--TO THE CIVIL SERVICE RETIREMENT AND

DISABILITY FUND. UNLIKE THE CURRENT SYSTEM, THE NEW RETIREMENT SYSTEM MUST BE FULLY FINANCED BY EMPLOYEE AND EMPLOYER CONTRIBUTIONS BEGINNING JANUARY 1, 1987. AS A RESULT, THE INTERNAL REVENUE SERVICE MUST NOW CONTRIBUTE ADDITIONAL AMOUNTS TO FINANCE EMPLOYEE RETIREMENT. THE NEW RETIREMENT SYSTEM REQUIRES IRS TO CONTRIBUTE APPROXIMATELY 21 PERCENT, A THREE-FOLD INCREASE, OF EMPLOYEE BASIC PAY TO COVER SOCIAL SECURITY AND ADDITIONAL RETIREMENT BENEFITS FOR IRS EMPLOYEES. SINCE OVER 30 PERCENT OF IRS EMPLOYEES ARE POST-1983 HIRES, THE ADDITIONAL, UNCONTROLLABLE COSTS ARE SIGNIFICANT -- $120 MILLION IN FY 1987. WE HAVE ASKED THAT THESE COSTS BE FUNDED IN OUR SUPPLEMENTAL REQUEST.

NOW I WANT TO TALK ABOUT ANOTHER, VERY IMPORTANT PIECE OF LEGISLATION, THE TAX REFORM ACT OF 1986, PUBLIC LAW 99-514. THIS ACT REPRESENTS A SWEEPING CHANGE FOR THE BETTER. CONTAINING EIGHTEEN TITLES, WITH OVER 300 PROVISIONS, THE ACT, IS THE MOST SIGNIFICANT TAX LEGISLATION IN THE LAST THIRTY YEARS, AND SOME SAY, IN THE HISTORY OF OUR TAX LAWS.

IT IS CRUCIAL THAT WE PROPERLY PUT INTO PLACE THE PROVISIONS ENACTED BY CONGRESS. EFFECTIVE IMPLEMENTATION OF THE ACT IS A HIGH PRIORITY OF MINE AND THE KEY TO TAXPAYERS COMPLYING WITH THE NEW LAW.

PLANNING FOR IMPLEMENTATION OF THE NEW LAW BEGAN LONG BEFORE I BECAME COMMISSIONER. THROUGHOUT THE 30 MONTHS OF DEVELOPMENT AND CONGRESSIONAL CONSIDERATION OF THE TAX REFORM LEGISLATION, IRS TRACKED EACH PROPOSAL TO ASSESS ITS POTENTIAL IMPACT ON OUR CURRENT SYSTEMS AND ON TAXPAYERS. LAST SUMMER WE PUT INTO PLACE A DUAL COMPUTER PROGRAMMING SYSTEM, ONE TO DEVELOP SOFTWARE CHANGES UNDER THE OLD LAW AND ANOTHER IN

CONTEMPLATION OF THE CHANGES THAT WOULD GO INTO EFFECT JANUARY 1, 1987 UNDER THE NEW LAW. SINCE ENACTMENT OF THE ACT, WE HAVE PREPARED A DETAILED PLAN TO IDENTIFY EVERY ACTION THAT MUST BE ACCOMPLISHED AND TARGET DATES BY WHICH THAT ACTION MUST BE COMPLETED. IT IS IMPORTANT TO UNDERSTAND THAT IN A LARGE, MULTI-DIMENSIONAL ORGANIZATION SUCH AS IRS, ONE PROCESS DEPENDS UPON THE TIMELY COMPLETION OF ANOTHER. SINCE THE NEW TAX REFORM LEGISLATION MAY ULTIMATELY AFFECT OVER 500 OF OUR FORMS, DOZENS OF OUR AUTOMATED PROGRAMS, AND THOUSANDS OF OUR INTERNAL PROCEDURES, YOU CAN SEE THAT CAREFUL AND PRECISE PLANNING IS ABSOLUTELY NECESSARY.

IN ADDITION, I HAVE ESTABLISHED A CONTROL GROUP OF SELECTED IRS OFFICIALS WHOSE ROLE IS TO ADVISE ME ON THE PROGRESS OF PLANNING FOR IMPLEMENTATION, AND BRING TO MY ATTENTION THOSE ISSUES REQUIRING POLICY DECISIONS ON CONTROVERSIAL ISSUES OR PROGRAMS AFFECTING MULTIFUNCTIONAL OPERATIONS. A SYSTEM OF PRE-IDENTIFIED MILESTONES HAS BEEN DEVELOPED TO ASSURE ME THAT IRS IS IMPLEMENTING EACH ACTION IN A TIMELY FASHION AND THAT I WILL RECEIVE EARLY WARNINGS OF PROBLEMS.

AS YOU ARE AWARE, THE ACT WILL BE IMPLEMENTED OVER A THREE-YEAR PERIOD, BEGINNING IN FY 1987. THIS ENTAILS SIGNIFICANT ADDITIONAL COSTS TO THE IRS. IN ORDER TO MEET THESE ADDITIONAL COSTS, AND STILL MAINTAIN PROGRAM LEVELS APPROVED BY THE CONGRESS, WE ARE REQUESTING A SUPPLEMENTAL OF $80 MILLION IN FY 1987 ASSOCIATED WITH TAX REFORM.

WHILE ALMOST EVERY PROVISION OF THE ACT HAS AN EFFECT ON IRS OPERATIONS, CERTAIN TITLES HAVE A MORE SIGNIFICANT IMPACT IN TERMS OF THEIR IMPLEMENTATION COSTS. FIRST, THE CHANGE IN

THE BASIC RATE STRUCTURE, WHICH REDUCES TAX RATES AND INCREASES THE STANDARD DEDUCTION AND PERSONAL EXEMPTION AMOUNTS, RESULTS IN REDUCTION IN THE NUMBER OF INDIVIDUALS WITH A TAX LIABILITY. WHILE NEWSPAPER REPORTS HAVE ESTIMATED THAT NUMBER TO BE 6 MILLION, THESE INDIVIDUALS WILL STILL HAVE TO FILE A RETURN IN ORDER TO OBTAIN A REFUND OR CLAIM THE EARNED INCOME CREDIT. IN ADDITION, THE REQUIREMENT THAT CHILDREN WITH EARNED INCOME OVER $500 PLUS $1 OR MORE OF UNEARNED INCOME BE TAXED AT THE HIGHER OF THEIRS OR THEIR PARENTS' MARGINAL TAX RATE WILL REQUIRE MORE CHILDREN TO FILE, FURTHER OFFSETTING ANY POTENTIAL REDUCTION IN THE NUMBER OF RETURNS TO BE FILED. CHANGES IN TAX FORMS AND FILING REQUIREMENTS APPLICABLE TO CHILDREN WHO WILL BECOME TAXPAYERS UNDER THESE NEW PROVISIONS WILL NECESSITATE EXTENSIVE REPROGRAMMING OF IRS COMPUTER SYSTEMS. NEW TRANSACTION CODES ALSO WILL HAVE TO BE ADDED TO THE RETURNS PROCESSING CYCLE TO MAKE CERTAIN, FOR EXAMPLE, THAT PARENTS IN THEIR TAX RETURNS HAVE IDENTIFIED SOCIAL SECURITY NUMBERS FOR ALL OF THEIR DEPENDENTS OVER AGE FIVE, WHICH WILL SUBSTANTIALLY INCREASE THE WORKLOAD IN PROCESSING TAX FORMS.

TO OBTAIN THE HIGHEST COMPLIANCE POSSIBLE WITH THE NEW LAW, IRS MUST INFORM THE PUBLIC OF THE MANY CHANGES TAX REFORM BRINGS ABOUT. INFORMING THE PUBLIC IS THE KEY TO EFFECTIVE IMPLEMENTATION. FAILURE TO PROVIDE HIGH QUALITY, ASSISTANCE AND SERVICE TO THE PUBLIC WILL CAUSE A FURTHER EROSION OF THE CONFIDENCE AND RESPECT AMERICAN TAXPAYERS HAVE IN OUR TAX SYSTEM, RESULTING IN DECREASES, OVER THE LONG TERM, IN THE LEVELS OF VOLUNTARY COMPLIANCE.

EXTENSIVE REVISION OF EXISTING TAX FORMS AND PUBLICATIONS IS NECESSARY. IRS WILL REACH THE PUBLIC WITH NEW PUBLICATIONS THAT PROVIDE TAXPAYERS WITH THE INFORMATION THEY

NEED CONCERNING WITHHOLDING, SOCIAL SECURITY REQUIREMENTS FOR DEPENDENTS FIVE YEARS AND OLDER, RATE CHANGES, AND OTHER CHANGES IN THE LAW. AS PART OF THE EXTENSIVE OUTREACH EFFORT, RADIO AND TELEVISION SPOTS WILL BE AIRED AND VIDEO CASSETTE TAPES MADE AVAILABLE FOR PUBLIC USE AT LOCAL LIBRARIES. THE SERVICE MUST ALSO BE PREPARED TO RESPOND TO TAXPAYERS' REQUESTS FOR INFORMATION OR ASSISTANCE CONCERNING THE NEW ACT. ABOUT 2.8 MILLION TAXPAYERS ARE EXPECTED TO CONTACT US THIS FISCAL YEAR.

IT IS ALSO ESSENTIAL THAT THE SERVICE TRAIN ITS TECHNICAL WORKFORCE IN THE LAW. TRAINING IS UNDERWAY TO ACQUAINT IRS PERSONNEL WITH THE MANY PROVISIONS THE NEW LAW CONTAINS. TRAINING COURSES ALSO WILL HAVE TO BE REVISED TO IMPROVE TELEPHONE ASSISTORS' TAX SKILLS AND COMMUNICATION ABILITIES. OUR QUALITY REVIEW STAFF WILL ALSO BE MAKING CALLS TO TOLL-FREE SITES TO ASSESS THE QUALITY OF TELEPHONE SERVICE AND SUPERVISORS WILL MONITOR CALLS AT THE SITES AS A REGULAR PART OF THEIR MANAGEMENT RESPONSIBILITIES. FURTHER, ALL TAXPAYER SERVICE SPECIALISTS WILL BE TRAINED ON THE NEW TAX REFORM ACT OF 1986, AND ALL TAXPAYER SERVICE ASSISTORS WILL BE GIVEN AN OVERVIEW OF THE ACT.

REVENUE AGENTS, TAX AUDITORS, AND TAX EXAMINERS WILL RECEIVE ONE-DAY OF AWARENESS TRAINING ON THE NEW PROVISIONS. THIS WILL PROVIDE EXAMINATION PERSONNEL WITH INFORMATION NEEDED TO COPE WITH CHANGES IN THE TAX LAWS WHEN DEALING WITH TAXPAYERS AND THEIR REPRESENTATIVES. AN OVERVIEW OF ALL PROVISIONS OF THE TAX REFORM ACT WILL BE CONDUCTED FOR THE APPEALS, TAX LITIGATION, AND ENFORCEMENT LITIGATION FUNCTIONS IN CHIEF COUNSEL. A THREE-DAY COURSE TARGETED AT SPECIFIC AREAS OF THE LAW WILL BE HELD FOR THE TECHNICAL AREA. SEVERAL

COURSES CONCENTRATING ON THE FOREIGN PROVISIONS OF THE ACT WILL BE DEVELOPED FOR REVENUE AGENTS, TAX AUDITORS, AND REVENUE OFFICERS IN THE INTERNATIONAL PROGRAM. FINALLY, COLLECTION IS PREPARING TRAINING MATERIALS TO MAKE THEIR EMPLOYEES FAMILIAR WITH THE NEW INTEREST AND PENALTY PROVISIONS.

THE INTERNAL REVENUE CODE PROVISIONS DEALING WITH EMPLOYEE BENEFIT PLANS HAVE ESSENTIALLY BEEN REWRITTEN BY THE TAX REFORM ACT. APPROXIMATELY 20 PERCENT OF THE ACT DEALS WITH EMPLOYEE PLANS. IRS WILL BE REQUIRED TO REVIEW ABOUT 665,000 PLANS BEGINNING THIS FISCAL YEAR AND ISSUE LETTERS STATING IRS' DECISION ON THE VALIDITY OF THE PLAN WITHIN THE NINE-MONTH PERIOD REQUIRED BY LAW. PROVISIONS INSTITUTING NEW EXCISE TAXES AND EXTENDING THE SCOPE OF CERTAIN EXISTING TAXES RELATED TO PENSION PLANS BECOME EFFECTIVE IN CALENDAR YEAR 1987, AND ARE SIGNIFICANT TO REVENUE COLLECTION.

IN TOTAL, THE SERVICE IS REQUESTING $200 MILLION IN SUPPLEMENTAL FUNDING TO MEET OUR OBLIGATIONS AS AN EMPLOYER UNDER THE NEW RETIREMENT ACT AND OUR OBLIGATIONS TO THE PUBLIC UNDER THE NEW TAX LAW. THE SERVICE IS ABSORBING $66 MILLION, THE COST OF THE 3 PERCENT PAY INCREASE AUTHORIZED BY THE PRESIDENT THIS JANUARY.

FY 1988 BUDGET REQUEST

NOW I WANT TO OUTLINE THE MAIN FEATURES OF OUR FY 1988 BUDGET PROPOSALS. OUR BUDGET -- WHICH TOTALS $5 BILLION AND SOME 110,000 POSITIONS -- WILL INCREASE COMPLIANCE AND GENERATE SUBSTANTIAL NEW REVENUE, ENHANCE OUR SERVICE AND ASSISTANCE TO TAXPAYERS, AND CONTINUE OUR INFORMATION SYSTEMS INITIATIVES. IN SHORT, OUR 1988 BUDGET IS INTENDED TO MEANINGFULLY ADDRESS

THE THREE MAJOR ISSUES FACING IRS WHICH I HAVE PREVIOUSLY DISCUSSED.

WE ARE PROPOSING A BUDGET THAT WILL COLLECT ALMOST $840 BILLION IN TAX REVENUES, $49 BILLION RESULTING FROM DIRECT ENFORCEMENT OF THE TAX LAWS, EXAMINING TAX RETURNS, COLLECTING UNPAID TAXES, SECURING DELINQUENT RETURNS, AND MATCHING INFORMATION REPORTS. INCLUDED IN OUR FY 1988 BUDGET, IS AN INVESTMENT OF $400 MILLION WHICH WILL RESULT IN AN ADDITIONAL $2.4 BILLION BEING BROUGHT INTO THE TREASURY. THIS ADDITIONAL REVENUE WILL HELP NARROW THE DEFICIT IN MEETING THE GRAMM-RUDMAN-HOLLINGS TARGET OF $108 BILLION.

IN ADDITION, WE WILL PROCESS 186 MILLION TAX RETURNS, ISSUE 83 MILLION REFUNDS, AND ASSIST OVER 60 MILLION TAXPAYERS. WE WILL INCREASE OUR ELECTRONIC FILING CAPABILITY AND EXPAND OUR COMPUTER ROOM CAPACITY AT OUR SERVICE CENTERS. WE WILL ALSO EXPAND SUBSTANTIALLY OUR DRUG ENFORCEMENT CAPABILITY.

FINALLY, WE WILL EXPAND OUR INFORMATION SYSTEMS TO ENHANCE OUR COMPLIANCE AND TAXPAYER ASSISTANCE ACTIVITIES. ENHANCEMENTS INCLUDE CONTINUATION OF OUR COMPUTER INITIATIVES IN COLLECTION AND EXAMINATION, WHICH WILL GENERATE SIGNIFICANT NEW REVENUES, AND ADDITIONS TO OUR TAXPAYER ASSISTANCE PROJECTS.

COLLECTION OF ADDITIONAL TAX REVENUE

LET ME DESCRIBE WHAT MAKES UP OUR REVENUE INITIATIVES. AS THE SECOND PHASE OF A THREE-YEAR PLAN TO INCREASE THE EXAMINATION OF TAX RETURNS, OUR BUDGET WILL ADD 3,002 POSITIONS AND $121 MILLION. THIS CONTINUES THE INITIATIVE YOU APPROVED

LAST YEAR. IN 1988, THE SERVICE WILL EXAMINE 148,000 ADDITIONAL TAX RETURNS. OVER $10 BILLION IN ADDITIONAL REVENUE WILL BE COLLECTED BY 1992, OF WHICH $443 MILLION WILL BE COLLECTED IN 1988 FROM THIS SECOND INSTALLMENT.

AN INVENTORY OF OVER 158,000 DISPUTED TAX CASES ARE WAITING TO BE SETTLED IN APPEALS AND TAX LITIGATION. EMPHASIS NEEDS TO BE DIRECTED TOWARD CLOSING THESE CASES NOT ONLY TO REDUCE THE NUMBER OF CASES IN INVENTORY, BUT ALSO TO ACCELERATE THE COLLECTION OF TAX REVENUES BY $519 MILLION IN 1988. TO ACCOMPLISH THIS, WE ARE REQUESTING AN INCREASE OF 487 POSITIONS AND $22.9 MILLION FOR APPEALS AND TAX LITIGATION.

TO ENSURE FOLLOW-THROUGH ON CASES OF UNREPORTED INCOME DETECTED BY MATCHING INFORMATION RETURNS WITH INDIVIDUAL TAX RETURNS, WE ARE REQUESTING AN ADDITIONAL 1,362 POSITIONS AND $35.3 MILLION. THIS WILL ENABLE THE SERVICE TO REVIEW THREE MILLION MORE INCOME DISCREPANCY CASES IN FISCAL 1988. A TOTAL OF NINE MILLION MISMATCHES WILL BE REVIEWED THROUGH THIS PROGRAM, RESULTING IN UP TO FIVE MILLION TAXPAYER CONTACTS. OVERALL, DOCUMENT MATCHING WILL PRODUCE $3.8 BILLION IN ADDITIONAL TAX REVENUES, INCLUDING $224 MILLION FOR THIS NEW INITIATIVE.

THE ACCOUNTS RECEIVABLE PROGRAM AIMS AT COMPLETING ACTION ON UNPAID TAXPAYER ACCOUNTS, COLLECTING DELINQUENT TAX REVENUES OWED TO THE GOVERNMENT. TO SECURE AN ADDITIONAL $1.1 BILLION OWED BUT NOT PAID BY TAXPAYERS, WE ARE REQUESTING AN INCREASE OF 2,967 POSITIONS AND $122.4 MILLION.

IMPROVE TAX ADMINISTRATION

JANUARY 24, 1986 WAS A MILESTONE IN THE HISTORY OF TAX ADMINISTRATION, THE FIRST SUCCESSFUL TRANSMISSION OF TAX RETURN DATA FROM A TAX RETURN PREPARER TO IRS. ELECTRONIC FILING AUTOMATES THE STEPS OF FILLING OUT AND SUBMITTING A TAX RETURN TO IRS AND IRS RECEIVING AND PROCESSING THAT RETURN. WHEN THE SYSTEM IS FULLY OPERATIONAL, IT WILL ALLOW TAXPAYERS TO FILE RETURNS ELECTRONICALLY FROM ANYWHERE IN THE WORLD. TESTS HAVE ALREADY BEEN CONDUCTED IN SEVERAL METROPOLITAN AREAS. OUR REQUEST WILL MAKE THE SYSTEM AVAILABLE TO A LARGER NUMBER OF TAXPAYERS. STAFFING RESOURCES ARE BEING ADDED TO THE SERVICE CENTERS TO ENSURE THAT THE COMPUTER ROOMS ARE OPERATING ON SCHEDULE WITH NO MAJOR PROBLEMS.

RESOURCES TO PROCESS TAX RETURNS AND ASSIST TAXPAYERS WILL INCREASE TO MEET WORKLOAD DEMANDS. CURRENT ESTIMATES INDICATE THAT ALMOST 186 MILLION RETURNS WILL BE PROCESSED IN FY 1988, AN INCREASE OF 4.3 MILLION TAX RETURNS. THE SERVICE WILL CONTINUE ITS TOLL-FREE TELEPHONE, WALK-IN, AND CORRESPONDENCE PROGRAMS, AS WELL AS PROVIDE TAX LAW INFORMATION AND GROUP TAX RETURN PREPARATION AT COMMUNITY LOCATIONS, INCLUDING $2.4 MILLION IN TAX COUNSELING FOR THOSE OVER 60. OVER 60 MILLION TAXPAYERS WILL RECEIVE SOME TAX ASSISTANCE FROM IRS NEXT YEAR.

DRUG ENFORCEMENT

IRS WILL CONTINUE TO BE A MAJOR PARTNER IN THE MULTI-AGENCY DRIVE AGAINST DRUG ABUSE, WE WILL APPLY 1,726 POSITIONS AND $85 MILLION IN FY 1988 TO DRUG ENFORCEMENT. IRS IS FIRST AMONG ALL THE TREASURY BUREAUS IN THE RESOURCES

DEVOTED TO THE THIRTEEN ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES. WE ARE ALSO PARTICIPATING IN OPERATION ALLIANCE, AN EFFORT TO COMBAT DRUG TRAFFIC ALONG THE NATION'S SOUTHWEST BORDER. THROUGH OUR EFFORTS, 1,125 PROSECUTIONS WERE INITIATED LAST YEAR AGAINST NARCOTICS TRAFFICKERS, ORGANIZED CRIME FIGURES AND OTHERS WHO OBTAIN THEIR INCOME FROM ILLEGAL SOURCES.

INFORMATION SYSTEMS INITIATIVES

WE MUST USE COMPUTERS AND INFORMATION TOOLS TO IMPROVE THE EFFECTIVENESS OF PERSONNEL WORKING IN COMPLIANCE AND TAXPAYER ASSISTANCE ACTIVITIES. INCREASED AUTOMATION OF THE SERVICE WILL IMPROVE OUR CONTACTS WITH TAXPAYERS BY INCREASING OUR PRODUCTIVITY AND THE EFFECTIVENESS OF OUR PROGRAMS IN SECURING VOLUNTARY COMPLIANCE WITH THE TAX LAW.

THE TAXPAYING PUBLIC IS ACCUSTOMED TO GETTING INFORMATION FROM BANKS, INSURANCE COMPANIES, AND OTHER ORGANIZATIONS IN A MATTER OF MINUTES. IRS MUST BE ABLE TO RESPOND MORE QUICKLY AND ACCURATELY TO TAXPAYERS. THIS IS WHY MODERNIZATION OF OUR SYSTEMS IS SO IMPORTANT.

THE AUTOMATED EXAMINATION SYSTEM (AES) IS PROVIDING REVENUE AGENTS WITH PORTABLE COMPUTERS TO ACCESS TECHNICAL INFORMATION ON A TAXPAYER'S CASE, PERFORM TAX COMPUTATIONS, AND PREPARE EXAMINATION AUDIT REPORTS. DURING OUR NEXT PHASE, DESKTOP/MINICOMPUTERS WILL BE PROVIDED TO TAX AUDITORS AND EXAMINERS. WE ANTICIPATE OVER $10 BILLION IN REVENUE FROM THIS SYSTEM OVER ITS LIFE.

THE REPLACEMENT OF COLLECTION OFFICE PROCEDURES WITH THE AUTOMATED COLLECTION SYSTEM (ACS) RESULTED IN IRS SAVING 1,700

POSITIONS A YEAR. IT REDUCED THE COST OF CLOSING A DELINQUENT ACCOUNT FROM $50 TO $19, BRINGING IN AN ADDITIONAL $50 MILLION IN REVENUE IN FISCAL 1985. THE SUCCESS OF ACS HAS RESULTED IN THE DECISION TO AUTOMATE THE REST OF COLLECTION. THIS EFFORT, WHICH WE REFER TO AS THE INTEGRATED COLLECTION SYSTEM (ICS), WILL AUTOMATE CASE FILES AND THE STEPS IT TAKES TO PROCESS THOSE FILES. WE ESTIMATE THIS NEW SYSTEM HAS THE POTENTIAL TO BRING IN AN ADDITIONAL $2 BILLION IN REVENUE OVER ITS LIFETIME.

NEED FOR FLEXIBILITY

FINALLY, MR. CHAIRMAN, I WANT TO POINT OUT THAT WE, LIKE OTHER AGENCIES, FACE CERTAIN UNAVOIDABLE INCREASES IN OPERATING COSTS SUCH AS THE FULL YEAR EFFECT OF THE FEDERAL EMPLOYEES RETIREMENT ACT. IN FY 1988, WE WILL BE ABSORBING MUCH OF THESE COSTS BY REDUCING OVERHEAD AND SUPPORT EXPENDITURES WHEN THEY ARE LEAST ESSENTIAL. WE CANNOT PREDICT AT THIS POINT EXACTLY HOW THIS ABSORPTION WILL BE ACHIEVED. THE EFFECT ON OUR VARIOUS PROGRAMS AND THE NEW TAX LAW'S FIRST FULL YEAR IN 1988 IS ALSO IMPOSSIBLE TO PREDICT WITH PRECISION. FOR THESE REASONS, WE ARE SEEKING THE COMMITTEE'S APPROVAL OF AN ADDED MEASURE OF FLEXIBILITY TO TRANSFER FUNDS BETWEEN OUR FOUR OPERATING ACCOUNTS. I AM CONVINCED THAT THIS WILL BE A CONSIDERABLE HELP IN ASSURING BALANCE AND EFFECTIVENESS IN 1988, A CRUCIAL YEAR IN IMPLEMENTING THE NEW TAX LAW.

CLOSING

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED REMARKS. I WILL BE PLEASED TO ANSWER QUESTIONS YOU OR THE MEMBERS OF THE SUBCOMMITTEE MAY HAVE.

Biography of Lawrence B. Gibbs

Lawrence B. Gibbs was nominated for Commissioner of Internal Revenue by President Reagan on June 2, 1986, and was confirmed by the U.S. Senate on July 23, 1986.

As Commissioner, Gibbs is responsible for planning and developing IRS policies carried out nationwide by seven regional and 63 district offices.

Before accepting this position, Gibbs was a partner in the law firm of Johnson & Swanson in Dallas.

From 1973 to 1975, Gibbs was the assistant commissioner for technical at the IRS, where he was responsible for the development and issuance of all letter rulings to taxpayers, technical advice to IRS personnel and revenue rulings, tax forms, instructions and technical publications to the public. In 1972 he was the deputy chief counsel and acting chief counsel at the IRS, serving as the principal legal adviser to the Commissioner of Internal Revenue. Before accepting his earlier IRS positions, Gibbs was a member of the Corpus Christi, Texas, law firm of Branscomb, Gary, Thomasson & Hall from 1963 to 1972.

Born in Hutchinson, Kansas, in 1938, Gibbs was graduated from Yale University magna cum laude with a bachelor of arts degree in 1960 and earned his law degree from the University of Texas Law School with honors in 1963.

Gibbs served on the 1984 IRS Commissioner's Advisory Group and also has been a member of the Justice Department's Tax Litigation Advisory Committee of the Assistant Attorney General (Tax Division). Until his appointment he was a member of the Council which governs the American Bar Association Taxation Section, and he previously had been chairman of the ABA Taxation Section Administrative Practice and Low-Income Taxpayers Committees.

He is a member of the American College of Tax Counsel; the Supreme Court of the United States; the American Law Institute; the American Bar, Federal Bar, Texas Bar and Dallas Bar Associations; the International Tax Association of Dallas and the

Dallas Estate Planning Council. He is also a member of the Board of Editors of the Texas Law Review; Phi Delta Phi Honorary Legal Fraternity and the Order of Coif Honorary Legal Society.

Gibbs has written and edited many articles and has been a frequent lecturer on tax issues.

Gibbs is married to Dorothea S. Gibbs, and they have a daughter, Blair, and a son, Dwight.

INTRODUCTION OF ASSOCIATES

Mr. GIBBS. Mr. Chairman, thank you. It is a pleasure for me to be here today and attend this my first appearance at the Senate Appropriations subcommittee hearing for my agency. I would like to begin by introducing the people who are here with me. And to make it easy—this is not necessary in protocol, but to keep it simple—on my left is Steve Taylor, who is Director of Finance. To Steve's left is Phil Coates, our Associate Commissioner for Operations. To Phil's left is Eddie Heironimus, who is our Associate Commissioner for Data Processing. And to Mr. Heironimus' left is Jean Owens, our Deputy Chief Counsel, who is my attorney.

OPENING STATEMENT

I would like to begin by saying that I look forward as I come onboard to working with the committee, to trying to be as helpful as I can to you and joining you in working to make our tax administration system as good as it can be. As you may know, 10 years ago I was here with the Internal Revenue Service, then in the role of Chief Counsel and as the Assistant Commissioner, Technical.

ISSUES FACING IRS

I would like to begin my testimony today really in perhaps a little unorthodox way by summarizing what I see to be the three major issues that face my agency today. And then I would like to, in effect, repeat those in the context of the 1987 supplemental that we are here on today, and also the 1988 budget request.

The first major issue that I see that faces the Internal Revenue Service is the need to ensure that our tax system is both effective and fair. This is primarily related to the need for revenue to enhance our compliance and revenue production capability.

The second challenge that I see is the need for the agency to be more responsive and responsible to the taxpayers of this country. This is an emphasis not only on taxpayer service, but frankly, on the attitudes of our people as we provide better customer service to the American taxpayer.

The third and final objective is the importance of the continued modernization of the Internal Revenue Service in terms of its computer

and information systems capability, because that, I believe, in essence is the key to permitting us to accomplish the first two objectives.

REVENUE GENERATING CAPABILITY

With respect to our first objective, what I would call our compliance and revenue generating objective, I think the Internal Revenue Service has proven its role as the revenue center of the Government—its ability to raise the revenues on which the other functions of Government depend. I think we have been able to do it in an effective and in an efficient way.

Last year, for example, it cost the taxpayers 49 cents for every $100 of revenue that our agency collected. The additional investment that we make in the compliance area not only produces additional revenue, but also, it helps to assure taxpayers who are paying their fair share of tax that the Government is concerned about collecting tax from those who are not paying their fair share, and, therefore, it really underscores the importance of the Government's commitment to a fair tax system.

An additional investment of $400 million will bring the Treasury $2.4 billion of additional revenue in 1988. At the same time that we are emphasizing the importance of asking people to comply with their tax obligations I think it is also important for us within the agency and within Government to emphasize a balanced approach to our tax administration system to provide Internal Revenue Service with the funds to meet the needs of taxpayers who are trying to comply with our tax laws.

I know that from time to time you hear from your constituents that our employees perhaps have done something or failed to do something that does not live up to this commitment to provide better service to taxpayers. I hope when that happens that the Internal Revenue Service will understand the importance of responding to these issues promptly, fairly, and straightforwardly.

W–4 FORMS

And in effect, I would submit that our experience recently with respect to the W–4 form is a case in point. Although we were asked to provide a more accurate form, and although we provided that form last fall, I am hopeful that Congress will join me in recognizing that despite the request and despite the attempt to provide it, we have, in effect, provided a product for which there is a very limited market.

What the people of the country, I think, have told me is that they would like to have a simpler form, even if we have to sacrifice some of the precision in the process. We have gone back to the drawing board, we have provided that, we have tested it with taxpayers across the country. We are trying now to respond and get the form out to the taxpayers that would like to have it and who are waiting for it and who run the risk of being underwithheld if they cannot get it.

I hope we are able to do it promptly.

Senator DOMENICI. Mr. Chairman, might you just ask at this point when he expects that. We hear all kind of rumors, new ideas. When is the simpler form going to be available to the taxpayers?

Mr. GIBBS. Senator, we have been in discussion with OMB for the last 3 or 4 days. I personally spent most of my day yesterday discussing the concerns about the new W–4 form. I think we are making very good headway with some of the issues and questions that OMB has. Largely the changes that they are suggesting are changes to the instructions in the form and not the worksheet in the form itself or the certificate.

There is a hearing going on at the present time with respect to paperwork reduction. I suspect that that hearing and the OMB response to the hearing will determine to a large extent when they will give us the approval to go forward with the form. As soon as we receive their approval we will print the form. We will distribute the form, and we will make it available.

Senator DECONCINI. Also along that line—let me interrupt your statement a minute—you said that you have sent this form out for public reaction?

Mr. GIBBS. Yes.

Senator DECONCINI. What kind of reaction are you getting?

Mr. GIBBS. We tested the form for 6 weeks all over the country——

Senator DECONCINI. The new form?

Mr. GIBBS. The new form, the new W–4a form, Mr. Chairman. We have tested, under the guidance of Booz-Allen & Hamilton, which is an internationally known firm in the consulting area and in the forms design area. They structured the groups for us. We have held over 23 sessions in various parts of the country with over 200 taxpayers where we actually asked them to sit down and use our form.

They were blue-collar, white-collar, 1040 filers, 1040A filers, 1040EZ filers. We have gone through about eight drafts of the form as we revise it over a period of time in response to the concerns and the questions and issues that they had.

We have a form that these people tell us—both the Booz-Allen folks and the taxpayers that we have run within the last several weeks—tell us that we have a form that they understand, that they can use, and that it gets them to the right result.

Senator DECONCINI. Did you go through that process with the first form?

Mr. GIBBS. We went through a process that was different from that. We did test it.

Senator DECONCINI. You tested it with the public?

Mr. GIBBS. We tested it with—we went to our service centers.

Senator DECONCINI. Did you get anybody who——

Mr. GIBBS. We went to our service centers where we have our nontechnical employees and we tested it with those employees who are not technicians. They are people, basically, who tend to be your lower- and middle-income folks. We tested it there. With the time pressures that

we had to get the form out with the passage of the legislation and to have the form in people's hands by the middle to the end of December so that they could prepare the withholding by the first of January.

We were not able to test it as much as I would have liked. And quite honestly, that is one of the reasons why, when the issues started arising, we simply asked the Booz-Allen people if they would alter the study that they were already making of the W–4 form to include the public tests.

Senator DECONCINI. I am not here to beat up on you any more than you already have been. I can tell the wounds and the scars are all over you—but it is an awful situation, Mr. Commissioner, when these things are permitted to go on like that did. To me it is just bad management. I do not know how in the hell you explain it. I am sure you were rushed, but it does not take much of anything other than common sense to know that the two-page W–4 form, or whatever it was that I looked at, was not going to go over well with taxpayers, and I hope the new W–4a is indeed better received.

The unfortunate thing for the IRS and our Government is that so much damage has been done. You are not the most loved people anyway in the Government because you have the very difficult job of collecting taxes. And then when you walk into one like this on top of it, I really feel sorry for you. But also, it bothers me as a Government official, too, that we would be so foolish to let ourselves get set up like this, or let you get set up, or have yourself get set up. But go ahead with your statement. That is gratis opinion only.

Mr. GIBBS. All right. I will say, Senator, I think one of the things we discovered as we constructed the first form, if indeed we do wish to have a withholding form that matches as closely as possible withholding to tax liability, then I think we must face the fact that the withholding system mirrors the income tax system. And if you are going to produce that kind of form, then you are largely going to run into many of the same problems we have in our income tax form and it is complicated.

Senator DECONCINI. So you are telling me that this income tax revision we passed last year, because the W–4 form is so changed and so much more complicated, is really a much more complicated tax law than we had before, because we had a simpler form before?

Mr. GIBBS. No; what I am saying is this, in the past, basically, we have adapted our W–4 form. We have taken some shortcuts, and frankly, it has not been as precise and it did not match withholding and income tax liability as precisely. But the tradeoff was an accuracy/simplicity tradeoff. We traded off some of the precision in order to get some simplicity.

When we got the instruction that said construct a form that matches withholding as accurately as possible to income tax liability, I am saying that it caused us to change the form in a way, so we started trading simplicity to get the accuracy. Now what we have done with the simplified version is to come back and, frankly, tradeoff some of the precision and some of the accuracy to get back to a more simple form.

Senator DECONCINI. Well, I am glad you have done that. Go ahead and finish your statement and then we will get to some questions.

BALANCED APPROACH

Mr. GIBBS. In any event, my point is simply this. As we are emphasizing our compliance functions to raise additional revenue and to assure people that we are going to enforce the law effectively in the tax area, I think we do need, within the organization and within tax administration, to devote the interest, the time, and the resources to the taxpayer service side as well.

INCREASED AUTOMATION

And my final point would be that in my opinion, increasingly important in the tax administration area are the computerized information systems that we have that permit us to do our job in a more efficient and in a more effective way, both from the standpoint of compliance, where we have our automated collection system, our automated examination system, and the other systems that are in the wings and waiting to come forward that will permit us to do our compliance job better and at the same time will also permit us to give better taxpayer service.

We right now in our returns processing systems, right now in our taxpayer service systems, we are using a Model-T that comes from the 1960's. It is driven by tapes, it is not state of the art, and over the next 8 or 10 years we are going to be replacing that Model-T with a more up-to-date state-of-the-art type of telecommunication system. It will permit us to give better account information to taxpayers, process returns more quickly, and give the type of service that I think we all would like to give the American taxpayer.

BUDGET INCREASES

Let me just briefly summarize our 1987 and 1988 request. In 1987 we are asking for a supplemental appropriation of $200 million. It basically is broken down, $120 million to meet our obligations with respect to the new retirement system, and $80 million for our obligations under the new tax reform law. At the same time we are asking for more money, we are also tightening our belt by absorbing in full the $66 million pay increase that was passed in January.

For 1988 our budget totals $5.1 billion and we have some 110,000 positions that would be authorized under the budget. With this budget we will collect $840 billion in tax revenues, $49 billion of which will come from direct enforcement. We will, in the process, also actually handle and process 186 million tax returns, issue some 84 million refunds, and assist over 60 million taxpayers.

We will be improving tax administration under the budget request for 1988 particularly in processing tax returns and assisting them with the increased workload demands. And by the way, we estimate that we will have 4.3 million additional tax returns that will have to be processed in 1988.

We will continue our taxpayer assistance. We will provide the other things that we have been providing from the standpoint of our customer service functions.

DRUG ENFORCEMENT ACTIVITIES

I would also like to emphasize that part of our service function and our compliance function are our activities in the drug enforcement area. We are a major participant in the multiagency efforts against drug abuse. We will continue to provide resources with respect to our organized crime and drug enforcement task forces and the Operation Alliance in which we presently participate.

REVENUE INITIATIVES

Finally, we will with the budget in 1988 continue to improve and enhance our capabilities in our computer and information systems area. I would like to close by indicating that I would like to summarize what I have been saying with just a few charts and then I would be pleased to answer your questions.

Internal Revenue Service
FY 1988 Initiatives

Return on Investment
FY 1988 Budget
(Dollars in Millions)

Purpose:	Investment	Return (Revenue)	Return on Investment
Determining Tax Liabilities	$226.6	$1,091	4.8 to 1
Collecting Unpaid Taxes	122.4	1,125	9.2 to 1
Document Matching	35.3	224	6.3 to 1
	$384.3	$2,440	6.4 to 1

[CHART 1]

If we could begin with the charts, the first chart that I have is a chart which summarizes our 1988 revenue initiative. And generally, what it does is show that with an additional investment of some $384 million in 1988 in our compliance area we will produce revenue of $2.4 billion, or about a 6.4 to 1 return on the investment.

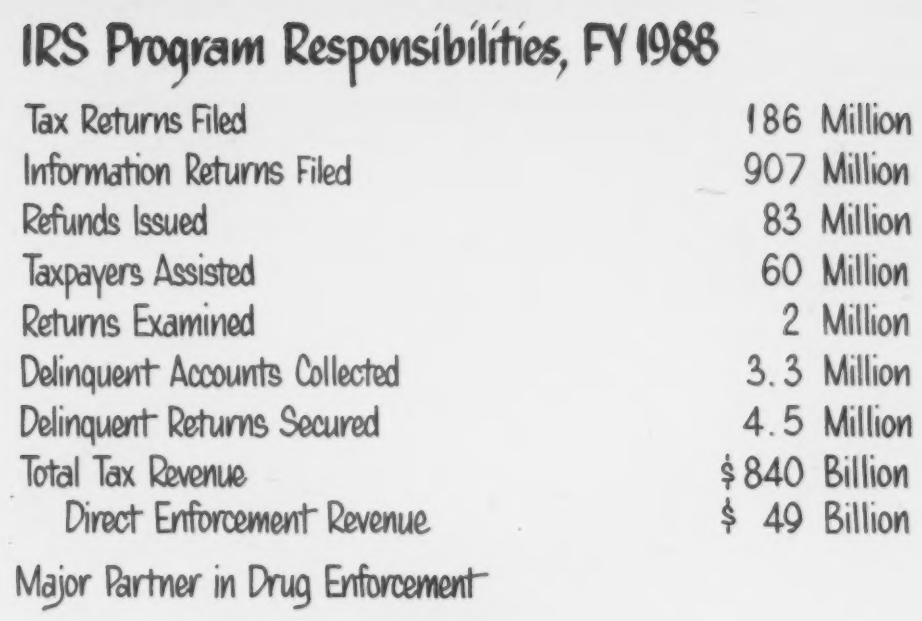
Now, this is composed of three major components; namely, the additional examinations that will permit us to determine additional tax lia-

bilities, the $226 million investment there producing over $1 billion of return. We will have additional resources to collect additional unpaid taxes. A $122 million investment to produce $1.125 billion. And we will have an additional document matching capability with an additional investment of $35 million to produce a return of $224 million, or a 6.3 to 1 return on investment.

[CHART 2]

REVENUE PRODUCTION

What this shows in the second chart, really, is that with the $2.4 billion revenue collections in 1988, if you project this out in terms of what this program will produce over 5 years on a cumulative basis, you will see that it goes up about $3 billion a year. So that by 1992, over 5 years, with the additional resources, we will have produced to the Federal Government in the Treasury over $15 billion of revenue.


IRS Program Responsibilities, FY 1988
Tax Returns Filed 186 Million
Information Returns Filed 907 Million
Refunds Issued 83 Million
Taxpayers Assisted 60 Million
Returns Examined 2 Million
Delinquent Accounts Collected 3.3 Million
Delinquent Returns Secured 4.5 Million
Total Tax Revenue $840 Billion
Direct Enforcement Revenue $ 49 Billion
Major Partner in Drug Enforcement

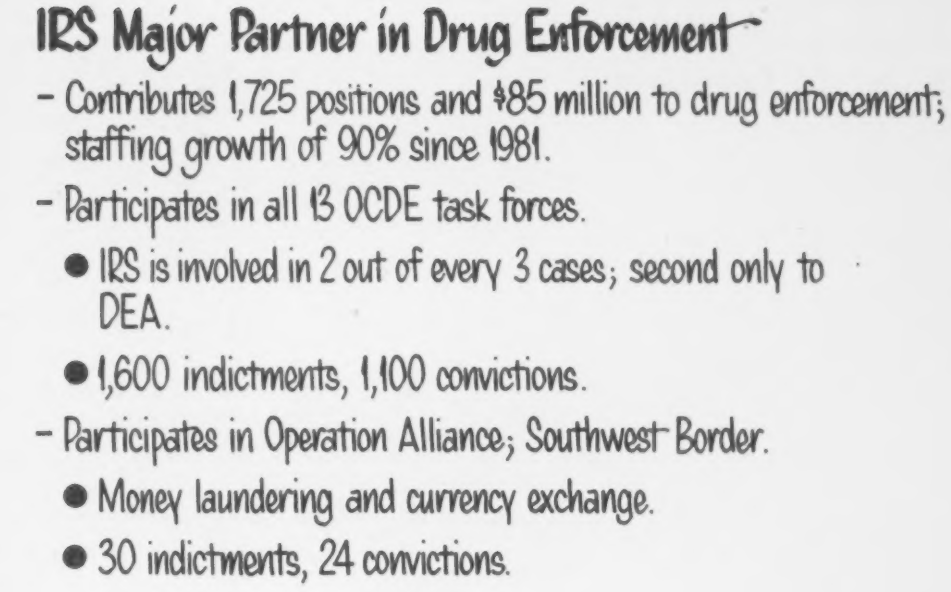
[CHART 3]

PROGRAM RESPONSIBILITIES

I would like to turn to the next chart which summarizes some of the taxpayer assistance as well as some of the compliance activities that I was talking about. I make the point that with the additional resources in 1988 we will actually process and handle 186 million tax returns. We are getting up close to handling 1 billion tax information returns—907 million. We will issue 83 million refunds and assist 60 million taxpayers.

On the compliance side, we will examine 2 million tax returns, 3.3 million delinquent accounts will be collected, and 4.5 million delinquent returns will actually be secured by the Internal Revenue Service.

We will produce with our revenue system in 1988 an estimated $840 billion, which makes us the envy of the world. And I am told by my counterparts around the world that they look to the United States and to the Internal Revenue Service as a model in tax administration for the world.


IRS Major Partner in Drug Enforcement
- Contributes 1,725 positions and $85 million to drug enforcement; staffing growth of 90% since 1981.
- Participates in all 13 OCDE task forces.
● IRS is involved in 2 out of every 3 cases; second only to DEA.
● 1,600 indictments, 1,100 convictions.
- Participates in Operation Alliance; Southwest Border.
● Money laundering and currency exchange.
● 30 indictments, 24 convictions.

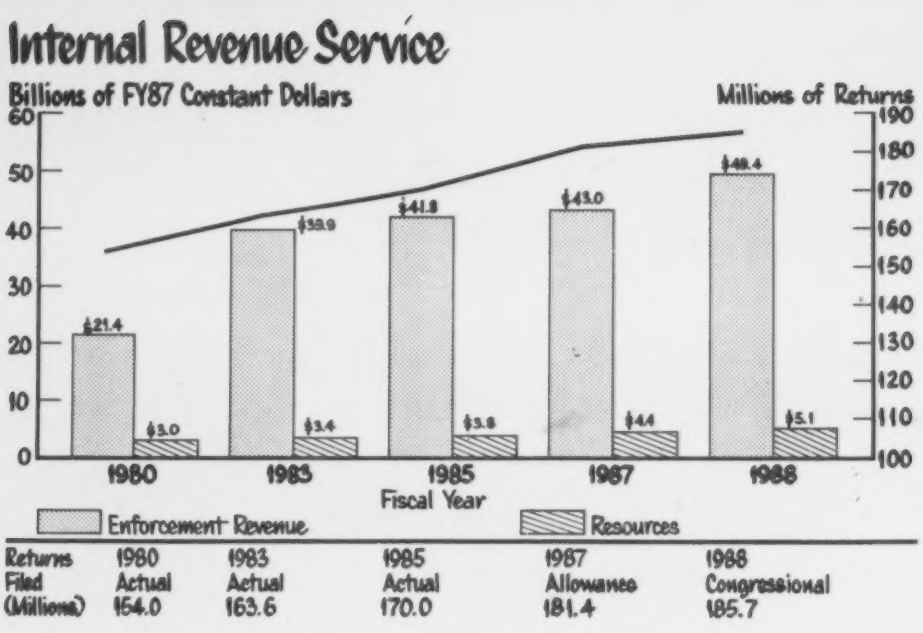
[CHART 4]

DRUG ENFORCEMENT

Our direct enforcement revenue in that regard will be almost $50 billion. And one of the things that I would like to highlight that I mentioned a minute ago is that we see ourselves as a major partner in the drug enforcement activity.

For 1988 we will contribute 1,725 positions and $85 million to the drug enforcement efforts, and actually that is what we have been producing since 1981—a staffing growth of some 90 percent. I would like to make the point that we are participating in all 13 of the organized crime and drug enforcement task forces.

IRS is involved in two out of every three cases in the drug area in this country, and that is second only to DEA. Since 1981 we have participate in 1,600 indictments and 1,100 convictions. We are, as you know, participating in Operation Alliance on the Southwest border. I know that both of you are on the Southwest border. I practiced for 10 years in Dallas and I am, frankly, a Texan. I know what it is like on the Southwest border. This is someplace where we are devoting our time, energy, and efforts, particularly in the money laundering and the currency exchange areas, and our efforts to date have produced 30 indictments and 24 convictions already.



[CHART 5]

WORKLOAD, RESOURCES, AND REVENUE

I would like to turn to the last chart, and the last chart I would tell you really summarizes and makes my point with respect to how all of this relates together. I would like to call your attention to the red line at the top, which basically shows the number of returns that have been filed from 1980 to 1988, and it shows a 21-percent increase in the number of returns that are filed.

And I would like to make the point that the number of returns that are filed basically are what determines to a very large extent our overall workload, not only in our service centers, but also in our compliance activities. And it also involves the major initiative in our modernization efforts with respect to our computer an information systems.

Now, as our workload has gone up, what we find with respect to our revenue is that it has basically gone from $21.4 billion to $49.4 billion over the 8-year period. In short, our enforcement revenues that we are producing with our resources have grown and grown substantially in constant dollars. At a time when our workload was going up and we were producing more revenues, if you will take a look at the final—the yellow provisions, that basically is our resources.

Those resources are adjusted for inflation but they are not adjusted for workload growth. If you adjusted them for workload growth what you would find is that our resources have basically remained the same since 1980. We are receiving additional increases in 1987 and 1988 for which we thank you already. The presentation that I will make to you

today shows why I think it is important to continue the resources in 1987 and 1988 to, in effect, handle the increase in work and to provide the additional revenue and to reenforce the fairness of the tax system.

COMPLAINTS ABOUT IRS

Senator DECONCINI. Commissioner Gibbs, thank you very much. Let me say at the outset, that your presentation is very impressive.

I have been on this committee for 10 years and I have seen these charts since 1980 and I cannot argue with them.

And I am more than happy to participate in more enforcement money and compliance money, but I must say that as I do this, I get more complaints about the IRS than ever before. And some of them are unfair because there are taxpayers who are trying to beat the Government out of their money—out of our money—and I have no sympathy for them.

But I am sure you are aware that we who deal with constituents cannot escape the continuous barrage of complaints that we receive, at least, of high-handed attitudes, and of cavalier treatment by some of your agents when they are in the compliance field doing these audits. And certainly some of these complaints are legitimate and certainly many of them are not. I know some that are not, knowing some of the individuals, and I know some that I think might be, knowing the individuals.

It is hard to say because you are not there when the so-called confrontation comes about. I want to know if you have given any thought to a mechanism for the taxpayer who feels he is being mistreated by one of your audit teams or compliance people, to do something. They need some recourse that they can take within the IRS, rather than hear if you do not like it, take us to court.

And I have been told by people that that is what is said, often, and I just wonder if you have given any thought to that. Because as we are asked to put more money into this compliance—and I am inclined to do it, I truly am—I would like to have a feeling that the Service is going to be aggressive but is also going to be mature and professional about it and nonabusive. We do a disservice when we do otherwise. Can you respond to that?

Mr. GIBBS. Senator, I agree with you completely.

Senator DOMENICI. Mr. Chairman, could I supplement it?

Senator DECONCINI. You certainly could.

Senator DOMENICI. Let me suggest that that question is absolutely the right question, and in answering it I hope you understand that it is not enough to tell the taxpayer—and to tell us—that they can go to the Internal Revenue Service and complain, because what happens is if you do not have an independent place to complain, my taxpayers are saying all that happens is that the auditors get worse on them, get harder on them, make everything more difficult.

Senator DECONCINI. You are so right, Senator.

EMPLOYEE ATTITUDES

Mr. GIBBS. I would like to give you a response because I am concerned. Remember that I have been a practitioner for some 19 years. This is my second stint in the Internal Revenue Service. I have sat on both sides of the table. I understand your concerns. I happen to agree with them. I would like to give you what I would call a broad answer and then I would like to give you a narrow answer.

That broad answer that I see is that we must in the final analysis as an agency deal with the attitude of our people in terms of what they see as our role, what they see as their role, and how they relate to the American taxpayer.

I have been traveling extensively in the last 6 months that I have been Commissioner and I have been emphasizing this from the standpoint of saying to people during the time that I am here what I think my role will be as the leader of the organization in terms of setting the tone and then finding a way to be effective with what I am about to tell you, and that is this, that as we deal with the taxpayer in the compliance functions, it is imperative that we deal in a professional way and that we deal in a fair way with them, that we see people as our customers, even those that we are auditing and from whom we are collecting money.

I feel this very strongly.

Senator DECONCINI. I agree with that.

Mr. GIBBS. And I think that at bottom, until we address the attitudes——

Senator DECONCINI. How do you implement a change, Mr. Commissioner? What do you do to change that attitude? And also provide us—as my good friend says—some place where the taxpayer can go?

QUALITY PROGRAMS

Mr. GIBBS. That is the narrow thing that I want to get back to with that. But let me address this for a second. One of the things that we are doing is to address this with respect to the executive so that the executives in the Internal Revenue Service understand the need for this, understand the concerns that you are expressing, the interest and the concerns that I am expressing.

We have in place, from the standpoint of our training and some of the quality programs that we are beginning to use, ways in which we can begin first to train our people so that they understand what we are asking for. And then quite honestly, once——

Senator DECONCINI. Is that part of the training now or was in being done before you came in?

Mr. GIBBS. Mr. Chairman, it is part of the training, but I want to see it go further than what it has gone in the past, and ultimately I want to see it woven into—and this is what we are talking about at the present time—promotion and pay.

Senator DECONCINI. And what are you going to do to that training? How are you going to enhance it? Maybe you want to supply that for the record.

Mr. GIBBS. Let me give you some examples. Let me give you some examples of things——

Senator DECONCINI. I hate to take up so much time——

Mr. GIBBS. That is all right. It is important. Excuse me, I am sorry. I get excited about this because this is one of my major policy issues.

Let me give you an example of some of the things that we are seeing. We have been giving our people in collection taxpayer-sensitivity training. Now, one of the reasons is because, quite honestly, the assaults on revenue officers—collection officers—have been increasing. One of the things that we found is that as we give people sensitivity training, which initially was oriented toward self-protection, they are also better able to deal with taxpayers in terms of being able to actually be more efficient in their collections, and the relationship with taxpayers for those who have had the training, frankly, are better.

Now, what I would like to see is more of that. I would like to see that sensitivity training built in. We also find that as some of our people in taxpayer assistance when taxpayer assistance was somewhat dismantled several years ago went into collection. Some of our most effective people and some of the people that are doing the best job came out of taxpayer assistance that are in collection.

I think that type of thing is important from the standpoint of emphasizing to people who have a very difficult job—collecting the money from people who quite honestly, many times do not want to pay. But there are ways that you can do it, in terms of sensitivity training, where you can be effective in collecting and also not be overbearing or overreaching with respect to the taxpayers that you are dealing with.

That is one kind of example that I would like to see. And I think if we put our minds to it, there are more that we can develop in that area.

Senator DECONCINI. Are you doing that?

Mr. GIBBS. Yes; we are.

Senator DECONCINI. Well, indeed the top priority I have, if we are going to grant the supplemental and grant you more money, is to know the specifics of what you are going to do. I quite frankly would like to be able to tell my constituents that this is what has been added; this is some of the training; and this is what we are trying to do is to be helpful.

LOBBYING BY PUBLIC ORGANIZATIONS

I have one other question and then I will yield. I have a number of other questions but I want to ask one more and then I will yield to my friend.

Mr. Commissioner, on February 19, 16 members of the committee, including the ranking member and myself, wrote to you and called for the withdrawal of the proposed IRS regulations regarding lobbying by public charities. This letter was signed by a number of us here, both minority and majority Members.

I understand that the charitable community is eager to consult with you in order to draft some new regulations. I also recognize that you are willing to make some changes. Neither of these facts, however, contribute in any significant way in stopping the immediate negative effects that these regulations are having. That is why 16 of us have taken it upon ourselves to bring this to your attention.

The very existence of these draconian regulations has had a negative and chilling effect on the 501(C)(3) community. Grant making foundations, most of whom operate on a 12-month cycle, feel they have no choice but to act as if your proposed regulations—and I say proposed regulations—were effective today.

The same applies to charities that are planning for next year's activity. Even if the regulations, when promulgated, were prospective only, the planning and operational cycle of volunteer associations require them to begin acting today. And if these proposed regulations were in effect right now—across this country—legitimate activities of 501(C)(3)'s are being hampered by these proposed lobbying regulations.

And we just cannot afford to go even 1 more day—in this Senator's judgment—with this in the public domain. And I urge you, Mr. Commissioner, to move swiftly to withdraw these proposed regulations and to start from scratch and to meet and consult with these charities. These are not people who are trying to beat the Government out of anything, but they have not been brought into the process, and I wish you would address that for me.

ISSUANCE OF PROPOSED RULES ON LOBBYING ACTIVITIES

Mr. GIBBS. I will be happy to, Mr. Chairman. Yesterday we announced that we will hold public hearings with respect to these regulations because I am concerned about what I am hearing and I would like to have the charitable community come in and tell me specifically what their concerns are and why this is having a chilling effect with respect to their activities.

I have heard a good deal of generalized comment and what I am asking the charitable community to do, in the sunshine, is to come in and tell us precisely what those concerns are. I have no desire to and we are not going to act precipitously in this area. This is a concern to me. I will also tell you that there is another part of the concern. I would very much hope that as the charitable community comes in, we also have people who will come in and talk to us in terms of how we should define lobbying, so that we do not affect the worthwhile charities of this country, and also, at the same time, how we can delineate those about which we are hearing a great deal recently—in Nicaragua, with the Iran/Contra issues and so forth—with respect to their lobbying activities.

Senator DECONCINI. Why did you not do this before, Mr. Commissioner, before you even proposed these rules?

Mr. GIBBS. It has been 10 years, Senator, since the legislation was passed. Over the course of the 10 years there has been a great deal of

dialog and discussion with respect to what the rules should be. Indeed, in the regulations as I look at them, many of the definitions and so forth are drawn from regulations, rulings, and so forth that have been promulgated for years.

Senator DECONCINI. Can you pull these rules off for some period of time so you can get that input before you have these rules floating out there scaring the living daylights out of viable legitimate charities.

Mr. GIBBS. What I would very much like to do is to have folks come in and explain in detail what the problems are.

Senator DECONCINI. Yes; but that leaves a hammer and a cloud over them that you are the big bad guy who is going to drop it if at any time you disagree with them. If you could get the playing field level by pulling these back for a while and go through this process, then in your judgment you have got to do it, and we will argue with you later on it if we disagree.

But it is a very unfair playing field, I think, to have these regulations out here scaring the living daylights out of some very good charities and I ask that you consider withdrawing the regulations as requested in our letter.

Mr. GIBBS. We will consider it, but I would very much like to have the specific input. And let me tell you one other reason. I am sympathetic to this, but I also recognize that any time we issue proposed regulations—and I would ask you to understand that we are going to issue many proposed regulations under tax reform—if all that a group has to do is to come in and say you are chilling our activities, then we are going to have a very difficult time implementing tax reform.

Senator DECONCINI. When are you going to tell me whether or not you can pull these back?

Mr. GIBBS. It will be after the hearings and after we have a chance to actually see, when people come in and tell us specifically what are the chilling effects that these things are having.

Senator DECONCINI. That is not much help because you are going to have them hanging out there as kind of a threat while you are having hearings. That is going to put them in a very disadvantageous position.

Mr. GIBBS. Senator, we do not enforce—our own procedures preclude us from enforcing proposed regulations.

Senator DECONCINI. You do not understand how influential and what an effect you have, Mr. Commissioner. You must have forgotten when you were in private practice, when somebody in IRS writes something down, even if it is only a proposal, how that affects your practice. And I bet if you think back, you will recall how much that sent chills through some of your clients.

Mr. GIBBS. Honestly, Mr. Chairman, I do recall two things from my practice. One is that I recall that if proposed regulations were being proposed to be acted on by the agency, I recall very definitely what I took to avoid that. And second, I also recall as I was representing my client, the use of the cold and the freeze in terms of chilling effects, to try to block the action.

All I am saying—what I would like to know is this. I am not trying to argue with the charitable community. I am asking them, would you please come in and talk to me.

Senator DECONCINI. I understand what you are saying.

Mr. GIBBS. I will attend those hearings. I will sit through the hearings for 1 or 2 days and listen to what the effects are and then I will respond to you.

Senator DECONCINI. For whatever it is worth, 16 of us have a little different approach.

I yield to my friend from New Mexico.

STRIPPER WELLS

Senator DOMENICI. Thank you very much, Mr. Chairman.

Commissioner, let me indicate my wholehearted support for what the chairman said with reference to new agents, new money for the uncollected accounts, and to make a better return for the Federal Government. I believe it is imperative that the Internal Revenue Service begin to make changes such that our constituents feel that this is not going to be a harassment process but rather a bona fide effort to get those who are not paying to pay what they owe. None of us object to that.

Now, having said that, it leads me right into another area. You are from Texas. I assume that in addition to the Internal Revenue Service expertise that you are aware that the oil and gas industry in the United States, large and small, is in a terrible state. We are in very, very serious risk in this country of having the domestic energy industry shrivel because prices have dropped so fast that the investment out there in the field is just almost falling off the table.

Now, with that background, with which I do not believe you can disagree—that is an actual fact—with that, we have got agents writing regulations who are still bent on going back retroactively and changing the definition of a stripper well for purposes of exemption from the windfall profits tax.

Now let me make it very simple. The windfall profits tax law exempted stripper wells. Stripper wells are small wells. The reason they were exempted is because of the fact that they are very small and thus very marginal in terms of their economic viability. We currently have them shutting down by the thousands because of the drop in price.

You must understand that as much as 15 percent of America's production that is out there is these 2, 4, 6, 8, and 10 barrel a day wells. Now, we have the Internal Revenue Service saying we are going back 4, 5, and 6 years to change the definition of a stripper well for a particular taxpayer based upon the fluctuation in the production of those wells.

Now we have three different times in Congress told the Internal Revenue Service, a stripper well is a stripper well. It is exempt. Now, I frankly believe this is right in tune with what we are talking about here today. How in the world can our taxpayers support us putting 10,000 new agents on to collect $2.4 billion more in revenue when we get

these kind of regulations to impose retroactively a tax on exempt stripper well oil and imputed stripper well oil of independent producers.

Now, before you answer that one, let me take the next one. We have had a longstanding definition with reference to the production of natural gas that centers around the definition of the word recovered. It has been a longstanding definition that taxable crude oil for windfall tax purposes includes all liquid hydrocarbons that were recovered at atmospheric temperature and pressure by mechanical means only at or prior to the inlet side of a natural gas processing plant.

We have Internal Revenue Agents who are going back in time, redefining the wheel by regulation, including many byproducts in the word recovered that have been, heretofore, excluded and not part of the word recovered under windfall profits. Specifically, my concern is that the IRS is now expanding the definition of taxable crude oil for windfall tax purposes to include certain liquid hydrocarbons that are recovered by manufacturing processes under nonatmospheric conditions inside natural gas processing plants. Now, I believe we need some help.

Oil producers do not need this piled on top of them in the middle of the other problems, so I would ask you, very specifically, as my chairman has—on the stripper well definition—would you be willing to confirm the statement that I have made? And if it is true, would you reissue regulations that are uniform with congressional intent so that we do not have agents out there working their will?

A stripper well is a stripper well, and if it was defined that way, they are not to go back and redefine the wheel because they want to look into the business of an individual well like they have got a new microscope to go out and see when did it produce 4 barrels, when did it produce 10, when did it exceed 11. Could you give us something on that?

Mr. GIBBS. Senator, I will. I did not know that this was going to be coming up today, and I apologize to you. Otherwise I would have tried to have an answer for you today.

Senator DOMENICI. All right.

Mr. GIBBS. I will go back, I will get into it, and I will try to give you a definite answer to both of those questions just as soon as I possibly can. Yes; I am from the Southwest. Yes; I do realize the plight of the oil and gas—the energy industry—today. And I have no desire to see our agents go back and retroactively change things that have been fixed. So let me get into it and let me——

Senator DECONCINI. Would the Senator yield for followup, because Commissioner, this gets back to the point that both Senator Domenici and I were asking you about—the attitude of your agents and your compliance. And if you raise all of this money—if Senator Domenici is correct—by doing dumb things like this, by putting legitimate taxpayers into another category so they have to pay taxes, that is not a legitimate increase in revenue as far as I am concerned.

I consider your enhancement and increase in revenues of those taxpayers who are refusing to report their income and refusing to pay, not

ones that are being interpreted as being a nonstripper well when it is clear it is. And that is what you need to focuse on, not just on stripper wells, but in a lot of places.

Senator DOMENICI. That is right.

Mr. GIBBS. I was just checking with my Associate Commissioner of Operations to see if he had any information. Let us go back and get into it and then we will get back to you on it.

Senator DOMENICI. All right. I want to say this to my chairman and to you, Mr. Commissioner. It is not my practice, even though my constituents are plenty upset, to come here this morning and hit you with this question without having attempted to get through to you. Frankly, you have been extremely busy. So has Mr. Taylor. But we did try to get the office to give you this question so you could look into it.

It is not your fault that you did not have the answer. I just want you to know I tried to get you the information. I did not want to spring it on you. I had no alternative.

Mr. GIBBS. Senator, that is perfectly all right. I have issues come up all the time, and if they are important to you, they are important to me. I will go back and get into it.

Senator DOMENICI. Thank you very much.

Mr. GIBBS. You bet.

Senator DECONCINI. Do you have any other questions?

Senator DOMENICI. I will be back and join you in some on his budget.

SUPPLEMENTAL REQUEST

Senator DECONCINI. All right. I am going to be leaving here in about 10 or 15 minutes, Senator. I can ask them to stay here for any questions you have.

Senator DOMENICI. No; I do not need to do that. I will just submit them. I want to suggest something here to you, Mr. Chairman, in public, and maybe we ought to do this—it seems to me that if we are going to get them extra money for agents, that the whole Government takes credit for the $2.4 billion in new revenue, but this committee has to supply a full batch of new money. I think we ought to join in a letter now, you and I—get it ready over the weekend—to the Budget Committee.

I think we ought to tell them——

Senator DECONCINI. What we are up to.

Senator DOMENICI. Yes, sir; that we are not going to have enough money for this supplement—the supplemental plus the outyear impacts of the supplemental—so if they are going to count on the extra $2.4 billion they better provide some extra money in this function. And I would be delighted to join you in that.

Senator DECONCINI. I thank the Senator. From your position on the Budget Committee, it will be very helpful in getting the attention of the Budget Committee on this issue. Because if we are going to do this, and we probably are in some manner or another, we cannot absorb it from the mint and these other management agencies.

Senator DOMENICI. That is right.

Senator DECONCINI. We just cannot absorb it from there. Thank you, Senator Domenici.

Mr. Commissioner, I have a host of questions that I will submit to you. Let me ask you a couple here. These will be easy, because I think you know they are coming.

You are requesting a program supplement of $80 million to begin implementation of the Tax Reform Act of 1986. The major portion of this supplement will go toward processing tax returns—$52.2 million and 463 positions—with lesser amounts for examination and appeals—$8.1 million and 145 positions—and investigation, collection, and taxpayer service of $16.7 million. The supplemental would provide IRS with a total of 932 new staffers.

What will be the effect on your operations, Commissioner, if this supplemental is not provided by Congress? Can you tell us what effect it will have on your preparations for the new tax bill, and also any effect on initiatives started in the continuing resolution?

Mr. GIBBS. Yes, Mr. Chairman, I can. In talking to representatives of the administration I find that their commitment is deep and abiding with respect to the importance of the tax reform law that I know you all have worked on here in the Senate and in the Congress for the last 2 years.

I will tell you as the tax administrator in this country I see it as the most significant act that has occurred in my lifetime. Because of its importance the administration is committed to doing the things necessary to implement it properly, and for that reason if for some reason we were not to receive the supplemental, then we would be left with no choice but to move some of the funds that we have in our compliance activities into the other areas in order to see that the act is properly implemented.

Senator DECONCINI. This is your first priority, even if you have to take away something from the compliance which brings in revenue?

Mr. GIBBS. Yes, sir; and we would do it responsibly, but that is what we would do.

Senator DECONCINI. I understand. That is a fair answer to a tough question.

How about the $120 million to cover your pay raises in the FERS supplemental? What effect would it have in fiscal year 1987 if that is not coming forward?

Mr. GIBBS. With the fact that we have already absorbed the $66 million on our programs, we would essentially do the same thing.

Senator DECONCINI. What would that do to your revenues if you did not get that $120 million?

Mr. GIBBS. We would, obviously, try to do it in a way to minimize the impact, but as we have looked at it, we roughly believe that it would, at the margin—which is where we are measuring—it would be about a 9-to-1 decrease. In terms of revenue, $9 for every $1 that we had to divert from compliance functions.

ADVANCED HIRING

Senator DECONCINI. Mr. Commissioner, as you and I discussed before this meeting and as you know, on at least two occasions in recent years, the IRS has gone out and hired thousands of staff before Congress approved the agency's supplemental budget request. In fact, the last time this occurred, the hiring actually started even before the President submitted his supplemental budget to the Congress.

This forced this subcommittee and the Congress to either approve the supplemental request or face wholesale RIF's of employees that your agency had already hired. And to the credit, I guess, of the former chairman, Senator Hatfield, he was able to persuade the former chairman of this subcommittee to go ahead and approve it. I was in the minority in that effort because I was just absolutely outraged.

Last year when we questioned OMB Director Miller about this advanced hiring matter, he was unaware of it and had no recollection that IRS had even received a so-called deficiency apportionment. And I guess what I want from you on the record, Mr. Gibbs, is to receive your unqualified, unequivocal assurance that under the Gibbs administration this type of advance hiring will not occur without the specific approval of the Congress?

Mr. GIBBS. Mr. Chairman, I have told you before and I will tell you again that I will assure you that before we spend any funds we will be down here with respect to the necessary procedures on the deficiency apportionment, that type of thing. I thought you might ask this. I would like to let you know that we have not—we are within our budget at the present time.

Senator DECONCINI. That was my next question.

Mr. GIBBS. We have checked that recently. Because of the types of things with these new laws, with the retirement and with the tax form, we do anticipate that later on this year we are going to be in a position of having to come to you with a deficiency apportionment. But we will come to you with that deficiency apportionment before those funds are spent.

Senator DECONCINI. Commissioner, that is fair enough, and I am more than happy to try to accommodate you, if we possibly can, as long as we are not excluded from the process.

REPLACEMENT OF COMPUTER EQUIPMENT

The last question I have deals with a $100 million contract awarded in October 1985 by IRS to Computer Systems and Resources, Inc., to replace IRS' existing front-end processors and computer terminals. The award was protested by three other vendors, and in January of last year, GSA's Board of Contract Appeals required IRS to either recompete the contract or award it to Sysorex, the only competitor that met the technical requirements in the initial request for proposal. IRS awarded the contract to this firm at a cost of about $48 million more than the original award to the Computer Systems and Resources.

It seems to me that the taxpayers cannot afford this type of spending waste, Mr. Commissioner. Knowing that it was going to cost you $48 million more to award it to Sysorex, why did IRS not recompete the contract?

Mr. GIBBS. I would like to give you a general answer and then ask my Associate Commissioner for Data Processing to elaborate. My understanding of this—and I gather this has a fairly substantial history—is that if we were to go back at the present time, or even at that time, and begin the process all over, we ran, because of simply the procurement timeframe that we have, we run the very severe risk of having severe problems in our service centers.

My understanding, Mr. Chairman, is that this is the single point of failure in the service centers that we do not have covered at the present time. Our equipment is old, it needs to be replaced, and we are having increasing maintenance problems. We do have some backup for it. But frankly, it is of great concern to us. And what we were trying to do with the additional contract is to, in effect, provide a way that we could, within the limits of the law—as I understand it, it was court supervised, with a court order, and so forth—we took the approach that, in effect, we thought would enable us to get the front-end processors into the centers as quickly as possible.

Senator DECONCINI. That does not answer my question. Why did you not have a recompetition? Maybe somebody else wants to answer that.

Mr. GIBBS. Again, I will turn it back to Mr. Heironimus, but my point is that it is a matter of timing. If we had gone back through the competition, then my understanding is that the time it would have taken us would have exposed us and the citizens of this country to basically what we went through in 1985, because of the critical nature of the front-end processor.

Senator DECONCINI. I see.

Mr. HEIRONIMUS. Mr. Chairman, that is correct. Our judgment at that time and the facts that were available at that time indicated that recompetition would have extended the time in which we could have replaced that equipment far beyond the time that that equipment would have serviced the system.

Senator DECONCINI. OK, if we were fair game, I am glad you did not go through that. I could not stand the mail. So what are you doing to see that that does not happen again? This is awfully hard to explain—any agency that has this kind of 48-percent increase, what steps do you take?

Mr. HEIRONIMUS. We certainly did not anticipate the reaction to our awarding of the initial contract and certainly will do everything we can to avoid that kind of thing from reoccurring. The unknown here is what it would have cost us had we recompeted. I think, operating without that information, it is very difficult for me to answer you specifically.

Senator DECONCINI. Is there nothing in the procurement law that would let you do an expedited recompetition?

Mr. HEIRONIMUS. Based on the advice that I received and in turn passed on to the Commissioner from our technical folks both in the procurement area as well as in the data processing area, there was no way of expediting it much beyond the 3-year period. And looking at that kind of a timeframe, we were extremely concerned about the ability of that equipment to literally last for the 3 years.

Senator DECONCINI. Did you have any idea it was going to cost this much, 48 percent, or $48 million more?

Mr. HEIRONIMUS. We knew at the time the award was made, yes, that it was going to be more.

Senator DECONCINI. So you did know it?

Mr. HEIRONIMUS. Yes, sir; we did.

Senator DECONCINI. Boy, those are tough decisions, Commissioner—$48 million versus all the mail and hell you would catch from Congress—are they not?

Mr. GIBBS. Yes, sir; they are.

Mr. HEIRONIMUS. Mr. Chairman, could I just make two observations. One, as I recall the competitive circumstances, the Sysorex organization was probably the middle bidder. There was even a higher bidder. This is relatively sophisticated equipment.

The other point I would like to make is that not only the condition of the equipment was of concern to us, but we have four of our centers that have been operating at a maximum level as far as ability to connect terminals to the mainframe installed in those centers because of this front-end processor that we are trying to replace.

Those centers are experiencing considerable growth. They are in the warmer climate of this country and there is a lot of influx of taxpayers coming into those regions and we continue to see that growth. We continue to bump our heads against that capacity problem. So that was the overriding concern that we had.

HIRING CONTROLS

Mr. GIBBS. Mr. Chairman, could I go back for just a second. Mr. Taylor mentioned something to me that I would—I mentioned this to you before, but I want to basically mention it to you again—with respect to the question that you asked me just before this question, and that was the issue of not spending the money before we receive it.

Again, we are within our overall spending limits. Now, we are spending money, because we have no alternative, with respect to things like the retirement amounts, and also implementation of tax reform.

Senator DECONCINI. But you have not hired anybody or paid anyone?

Mr. GIBBS. No; we are controlling hiring.

Senator DECONCINI. That is my concern.

Mr. GIBBS. But what we are doing, we are incurring some expenses that we believe will eventually cause us to have to come down and ask for a deficiency apportionment.

Senator DECONCINI. I understand.

Mr. GIBBS. All right, sir.

Senator DECONCINI. Mr. Commissioner, thank you for your approach, and all of you gentlemen who have helped here. I think you understand that you have got the attention of the ranking member and the chairman for sure, and Senator D'Amato. We are not out after your hide or anything else. We just have sincere disagreements in some areas and some concerns that we feel we have to express and this is the time to do it with you.

We want to work with you. We want you to continue the fine job you are doing. We just hope you can do it a little bit less disruptive. And we will leave it at that.

ADDITIONAL COMMITTEE QUESTIONS

Thank you for being with us today——

Mr. GIBBS. Thank you, Mr. Chairman.

Senator DECONCINI [continuing]. And answering all of our questions that will be submitted to you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

EFFECT OF CBO BASELINE ON IRS ACCOUNTS

SENATOR DECONCINI: A quick look at the CBO baseline assumptions for IRS in fiscal year 1988 shows that if you were forced to live with those numbers, the President's request would be cut substantially. Your Salaries and Expenses account is the only one that would actually increase over the President's budget.

What would be the effect on IRS's programs and initiatives in fiscal 1988 if you were forced to live with the CBO baseline estimates?

MR. GIBBS: If the Service were to be forced to operate with a $476 million reduction to bring our budget request in line with the CBO baseline, the planned program initiatives in FY 1988, totalling $457 million would be eliminated. Included in this reduction would be the various revenue initiatives planned in FY 1988 to increase the examination of tax returns, expedite resolution of tax disputes, expand document matching, increase our efforts to collect unpaid taxes and expand examination contacts at our service center. Also, the Service would curtail ADP and systems modernization initiatives begun in previous years to improve the efficiency and effectiveness of tax enforcement and tax processing. A reduction to these initiatives would mean the loss of $2.4 billion in additional revenue in FY 1988.

The remaining reduction of approximately $20 million would have to be accomplished by reducing base staffing in our tax enforcement functions. Reductions in these areas would mean a loss of $9 in additional revenue for each $1 reduced.

REVENUE INITIATIVE

SENATOR DECONCINI: Since the President's huge staffing increase for IRS began a few years ago, how much additional revenue have you brought into the Treasury that you would not have otherwise collected?

MR. GIBBS: The FY 1983 - FY 1985 Revenue Initiative, which added approximately 5,000 additional enforcement personnel in each of those three years, was originally estimated to realize $7.2 billion in additional revenue collected. This initiative eventually collected some $9.5 billion over what would have been collected in its absence.

ACCOUNTS RECEIVABLE INVENTORY

Senator DECONCINI: Despite the fact that we have poured thousands of new staff into IRS in the past few years, I am told that the Accounts Receivable inventory at the Service is projected to increase by almost $2 billion between FY 1987 and 1988.

Is this correct and if so, why is the accounts receivable inventory growing at a time when we are pumping more and more people into the Service to reduce the tax backlogs?

Mr. GIBBS: While the additional Collection staff in FY 87 and the requested increase in FY 88 will allow us to increase collections, we do expect to see growth of almost $2 billion in the ending accounts receivable inventory. We expect that the number and value of new accounts will continue to grow, based on expected growth in the number of returns filed, the amount of tax due on those returns and our increased enforcement activities. For example, Collection is using wage and other information documents to prepare income tax assessments against taxpayers who do not file their returns. This program, together with increased Examination activity, improved document matching and an expanded program to assess employment tax liabilities against employers who refuse or neglect to file the required returns, will increase the accounts receivable. We anticipate that 95 percent of these additional assessments will be collected within the six year statutory period for collection.

TAX REFORM AND TAXPAYER SERVICE

SENATOR DECONCINI: How do you expect to ensure compliance with the new tax laws and maintain your collection rates if you are only spending a small portion of your FY 1988 budget increase on Taxpayer Service?

MR. GIBBS: To meet workload resulting from the implementation of the Tax Reform Act of 1986 we are requesting 411 average positions for Taxpayer Service (301 average positions in FY 1987 and another 110 average positions in FY 1988). These additional resources should enable IRS to give timely and accurate responses to questions from the public concerning the new tax laws.

We are concerned about the overall level of service provided to the public and have when needed reallocated resources. In FY 1987 we redirected 500 average positions from less essential spending to accommodate a 75% level of telephone service. The FY 1988 budget request can accommodate a 65% level of service. We will reexamine the demand for taxpayer assistance after the current filing season and determine if adjustments are needed in the resource level for taxpayer service.

TAXPAYER SERVICE

SENATOR DECONCINI: I understand that the 1988 budget proposes a level of funding for Taxpayer Service that provides for responding to 65% of the taxpayers phoning IRS for tax help.

What do these figures mean in terms of your ability to answer taxpayer questions on the complicated new tax bill?

MR. GIBBS: Since we have no way of separating tax reform calls from other calls made to us, a 65 level of service means that we will be able to answer only that percentage of total demand for assistance. Demand is derived utilizing a formula applying a variable discount rate for busy signals to estimate the number of individual callers represented by the total busy signals. As the number of busy signals increases, they are counted as new callers at a progressively lower percentage. Although Taxpayer Service is funded to answer taxpayers who call for help in FY 1988 at a 65 level, one option which is open to us to increase this service level is to again redirect resources from our Examination and Collection programs. We have done this for the past two years and have provided toll-free telephone service levels ranging from 75 to 81. This redirection was particularly important this year because of questions dealing with tax reform and the issuance of new withholding forms. It should be noted as well that we will assist taxpayers who have questions on the Tax Reform Act through a variety of other means. We expect to serve 10 million callers via our Tele-Tax system and recorded tax messages in FY 1988. In addition, we intend to continue to conduct vigorous Community Outreach Tax Assistance, Volunteer Income Tax Assistance (VITA), and Tax Counseling for the Elderly (TCE) efforts. These three programs--the last two of which are coordinated by volunteers--helped a combined 2.1 million taxpayers in 1986; we expect even more to be assisted in 1987 and 1988. Finally, we have again planned a proactive Taxpayer Information effort next year. Our TV tax clinics, TV and radio spots, and other media campaigns will provide help to many taxpayers who would otherwise call us for assistance.

Taxpayer Service is again planning an active program to respond to taxpayer inquiries on the Tax Reform Act in FY 1988. We have already trained most of our employees on the new law and are regularly issuing in-house releases which clarify provisions of the Act. I am confident that we will enter FY 1988 with a cadre of well-prepped assistors who are able and willing to respond to Tax Reform Act questions.

ADP Budget Request/No Year Funds

Senator De Concini: As best I can figure, your ADP and information technology budget request for fiscal 1988 is $847.2 million -- about 17% of your total budget. This represents an increase of about $212.9 million or about 15%. In reading your justifications, I notice that you are asking that at least $80 million of this amount be "no-year" money. I am informed that the reason for holding out this part of your overall systems modernization money for "no-year" authority is that some projects will face unanticipated procurement

delays, thus causing some of these funds to lapse. What is the current balance of unobligated, no-year systems modernization funds? Tell us for the record, for each project contributing to the no-year fund balance, an estimate as to when the funds will be obligated or if IRS does not plan to spend the funds on those projects, what do you intend to spend those funds on.

Mr. Gibbs: The current balance of unobligated, no-year funds is $17,013,000. The following table shows each project contributing to the no-year fund balance, and an estimate of when the funds will be obligated.

INTERNAL REVENUE SERVICE
NO-YEAR FUNDING FOR SYSTEMS MODERNIZATION
($000s)

PROJECT TITLE	AVAILABLE	PROPOSED EXPENDITURES BY QUARTER FY1987		FY1988		BALANCE
	3-11-87	3RD	4TH	1ST	2ND	
Distributed Input System	1,981		501	910	570	0
Integrated Data Retrieval System	1,091	934	157			0
Automated Collection System	3,713	3,713				0
Revenue Accounting & Control	124			124		0
Service Center Replacement System	723		723			0
Automated Examination System	1,043	1,043				0
Tax System Redesign	394	381	13			0
Office Automation (D:C)	211	21	190			0
Management Systems Contractual Services	444	120	324			0
Visual Information System	110	110				0
Manual Accounting Replacement System	762		762			0
Automated Financial System	857	343	412		102	0
Files Archival Image Storage and Retrieval	1,765		1,765			0
Electronic Filing System	1,100	1,075	25			0
Automated Projects	183	183				0
Integrated Telecommunications Network	2,314		2,314			0
Centralized Inventory Distribution System	98		98			0
Remittance Processing Site Prep	100		100			0
	17,013	7,923	7,384	1,034	672	0

DELINQUENT TAXES

Senator DECONCINI: I am informed that as of June, 1986, active delinquent tax case inventories increased slightly from the end of the previous fiscal year to approximately 1.8 million delinquent accounts. In addition, the amount of delinquent taxes actively being worked by IRS increased approximately 32% to $12 billion and total taxes owed the Federal Government increased almost 9% to $47.2 billion.

Tell us what your fiscal 1988 budget will allow you to do to reduce this huge level of delinquent taxes owed the Government? Be specific and tell us what you estimate the delinquent tax balance will be at this time next year.

Mr. GIBBS: In the Accounts Receivable Program, the Service will complete action on some 3.3 million unpaid accounts and collect $13.4 billion in delinquent tax revenues, an increase of $1.5 billion over FY 1987. In addition, the Service will collect revenues of $10.4 billion from initial billings on unpaid

accounts, an increase of $627.0 million over FY 1987. The active delinquent tax case inventory will be reduced from nearly 1.9 million cases with a total value of $11.9 billion to less than 1.5 million cases with a value of $7.7 billion.

We estimate that the total accounts receivable will be $50 billion at the end of FY 1987, of which some $11.6 billion will be in delinquent accounts.

EMPLOYMENT TAXES

Senator DECONCINI: Collection of employment taxes is a major delinquency problem for the IRS. I understand that as of June, 1986, your data showed that IRS had a total inventory of about 891,000 business delinquent accounts worth $5 billion which includes both trust fund and other business taxes. These figures represent an increase of 63,000 accounts and $1.3 billion over business delinquencies being actively worked at the end of FY 1985.

What specific measures will you be able to take with your fiscal 1988 to deal with this serious employment tax delinquency problem and by how much will you be able to reduce this large delinquency balance?

Mr. GIBBS: During the latter part of FY 1986 Collection implemented a Workload Priority and Selection System which allows us to assign delinquent account cases on a priority basis. This priority is established through an analysis of several factors which focus on the potential yield of the case, but a greater weight is given to employment tax accounts. Using this system, Collection expects to greatly increase the dollars collected from all accounts, including trust fund cases. At the same time, however, we are also undertaking major initiatives to assess employment tax liabilities against taxpayers who refuse to file their returns using our authority under Section 6020(b) of the Internal Revenue Code. This program will add many business taxpayers to our inventory who were previously not filing their tax returns.

TRANSFER AUTHORITY

Senator DECONCINI: Why do you need 5% transfer authority between accounts -- why wouldn't you be able to manage your resources with 1% transfer authority to be granted with advance approval by the two Appropriations Committees?

Mr. GIBBS: The Internal Revenue Service is seeking five percent transfer authority between its four operating appropriations. Most agencies, including all the other Treasury bureaus, have one appropriation for operating expenses. The Internal Revenue Service has four separate operating accounts. Without specific authority, we cannot adjust resources

to meet immediate workload demands or direct funds to cover mandatory cost increases. Currently, IRS has very limited authority, one percent.

Budget estimates are initially developed about eighteen months before the fiscal year begins, and it is two and a half years between the time of initially preparing estimates to the time the amounts appropriated are finally spent. Every effort is made to forecast workloads and costs as accurately as possible. But, inevitably, actions on budget proposals and changing workload and cost requirements make it necessary that we have some ability to adjust.

In fiscal year 1986, the Congress approved five percent transfer authority, as part of the supplemental appropriation act, for IRS to meet workload demands in taxpayer service and returns processing. Using this authority, IRS transferred $13 million into tax processing and $9 million into taxpayer service from less essential programs.

In fiscal year 1988, the Service is facing significant challenges, including the need to (1) absorb almost $160 million in cost increases by reducing administrative and support expenses; (2) implement tax reform; and (3) ensure proper balance between service to the taxpayer and compliance programs.

By permitting IRS to transfer limited resources, up to five percent, the Congress will be giving the Service greatly improved ability to meet these challenges. In doing so, the Congress would also give IRS the flexibility most agencies already have. Moreover, it will allow us to deal more effectively with unforeseen problems, such as we are experiencing this year in revising the W-4, by shifting resources from less essential purposes.

This transfer authority is crucial for the Service to administer a highly decentralized tax system in a responsive and effective manner. Tax reform will significantly impact our workload and operations. The Committee's help in providing transfer authority would be greatly appreciated. On our part, we will report annually to the Congress the use made of such transfer authority.

AUTOMATED COLLECTION SYSTEM

Senator DECONCINI: IRS has had an operational system called Automated Collection System since 1984 -- a system that is designed to improve the management of cases involving delinquent taxes and returns. According to your own estimates, this system will cost over $600 million over six years, but will result in an annual net income of about $500 million and would eliminate the need for about 2,500 clerical positions.

What has been your actual experience since 1984 with this automated collection system? Tell us how many clerical positions you have been able to eliminate and how much additional money has been collected as a result of this system?

Mr. GIBBS: We are very pleased with the success of our Automated Collection System (ACS). In fiscal year 1986, our collections from active delinquent accounts increased by $400 million, or 8.5% over 1985. We attribute a major portion of this increase to improved case processing at our ACS sites. During fiscal year 1983, the last full year of our Collection Office function, we used 5,161 staff years in the office function. In fiscal year 1986, we used less than 2,000 staff years in our ACS sites.

TRAVEL AND TRANSPORTATION OF PERSONS INCREASES

SENATOR DECONCINI: Your travel budget has more than doubled since fiscal year 1986 -- from $90.2 million in FY 1986 to $181.5 million next year. Your 1988 budget increases by 27% over 1987.

I know you have been hiring thousands of employees, but why has your travel budget increased so dramatically in three years?

MR. GIBBS: The $90.2 million travel in FY 1986 represents the actual travel costs for that year. A total of $114 million was authorized for travel in FY 1986. However, all of this authority was not expended due to reductions related to Gramm-Rudman-Hollings as well as redirection during the fiscal year to ensure timely processing of all tax returns during the filing season and ensuring sufficient staffing in Taxpayer Service to maintain an 80% level of telephone service. A large part of the travel redirection related to training that was deferred until fiscal year 1987.

The large increase in the Service's travel budget can be attributable to the large number of new hires that the Service has been authorized since FY 1986 (over 13,000 average positions). For every new hire that the Service is authorized, travel funds are included to provide training and other on-the-job travel expenses. The majority of new hires are in the examination and collection programs. Daily travel to taxpayer locations is necessary in order to complete case files. Another major factor contributing to the large increase in the travel budget has been the changes to the travel regulations authorizing per-diem more in keeping with expenses incurred in travel status.

PERSONNEL RELATED CUTS

Senator DECONCINI: Why shouldn't you be able to cut back personnel items, travel and the like, much more substantially in light of the sharp personnel cuts under S & E?

Mr. GIBBS: Reduction to personnel related expenses have been made in response to staffing reductions in Salaries & Expenses appropriation; however, mandatory rate increases for pay and FERS more than offset the cuts. Also, recent GSA per diem rate increases (P.L. 99-234) are responsible for the $102 thousand increase in Salaries & Expenses.

FY 1988 AUTOMATION INITIATIVES

SENATOR DeCONCINI: It appears that IRS has several major computer initiatives planned for fiscal year 1988. You will be modifying your computer programs to implement the new Tax Act. You will be replacing your front-end processors and computer terminals in several service centers. And you will be formulating your strategy for developing a new Tax System Redesign system -- a system that I have asked GAO to examine very carefully as it comes on line.

Recalling the problems you encountered in implementing the Service Center Replacement System, what specific measures have you taken to ensure that these computer initiatives will be accomplished without jeopardizing the tax goals that the initiatives are intended to achieve?

MR. GIBBS: With regard to Tax Reform, we have emphasized that legislative changes are to be given the highest of priorities. Increased management involvement will assure that all program changes will be thoroughly coordinated and tested. One of the Service's Regional Commissioners has been appointed to chair a task force which is to oversee and ensure that the Tax Reform Act changes are properly and timely implemented, and we have implemented an automated tracking system to assist management in monitoring the progress.

In answer to your question on what measures we are taking to ensure the successful replacement of the front-end processors and computer terminals, we are utilizing a phased approach for the replacement. The installation and changeover includes a parallel computer system operation. The parallel operation provides a full back-up capability should the new system experience major difficulties. The IBM terminals that will replace the CDC terminals are fully compatible with the current system. This enables the switching of terminals between systems as necessary to test and implement the new front-end processors. The contract with Sysorex, for this replacement, requires Government review of vendor developed documentation and source code, and we are using that provision to the fullest extent possible. In addition, we plan to conduct thorough Systems Acceptability Testing (SAT) of the system to ensure the successful implementation is accomplished, and our tax processing workload and associated tax revenues are not jeopardized.

With regard to Tax System Redesign (TSR), we will be using a phased approach, employing a series of initiatives, versus one single initiative, to address tax processing changes. The entire effort will be paced to ensure that all steps in the systems development life cycle are monitored and adhered to so that the Service will decrease its margin for error and receive a quality product. The overall design effort is monitored by our Automation Policy Board (APB), and throughout all phases of ADP activity, the APB and the Automation Implementation Control Groups for individual projects will play a greater role in reviewing, monitoring, and approving direction of ADP projects. In addition, TSR is planning to develop an acquisition strategy with participation by our user and support organizations to ensure that any procurement process is well-planned. This strategy will address equipment procurement, systems integration, software development, and data base management. A systems engineering consultant is also being used to provide technical assistance.

FY 1988 Automation Initiatives

Senator DeConcini: Could you provide for the record a cost breakdown of all of your major computer or automation initiatives, including the Integrated Collection System and Automated Examination system and the other systems outlined above? Give us the fiscal 1988 costs and the long-term costs of each.

Mr. Gibbs: The following listing contains all the Service's major (over $10 million systems life costs) and new information systems initiatives. Shown are the FY 1988 budget base and the latest estimates of the out-year costs. The out-year costs, and most specifically Fiscal Year 1989 costs, are currently being reexamined in light of the effects of FY 1988 budget restrictions as the FY 1989 budget request is being developed. FY 1990 and beyond costs are also being revised to reflect the latest milestones and costs.

INTERNAL REVENUE SERVICE
MAJOR AND NEW INFORMATION SYSTEMS INITIATIVES

	FY88	FY89	FY90	FY91	FY92	FY93
CC-5 Counsel Automated Tracking System						
ANTICIPATED COSTS ($000'S):	4,143	18,833	15,010	14,569	14,794	8,092
DC-6 Computer Services Resource Management System						
ANTICIPATED COSTS ($000'S):	433	6,348	3,651	4,075	4,540	4,890
DC-7 ADP Services and Support/Communications Studies						
ANTICIPATED COSTS ($000'S):	1,937	7,703	7,703	7,703	7,703	7,703
DC-9 Tax Processing Print Systems						
ANTICIPATED COSTS ($000'S):	13,350	13,192	11,823	12,111	8,423	9,315

	FY88	FY89	FY90	FY91	FY92	FY93
DC-10 Real Time Communication System (Formerly IDRS/DCPS Terminal Replacement)						
ANTICIPATED COSTS ($000'S):	42,000	56,020	56,063	40,141	46,449	52,196
DC-14 Field Automation Support						
ANTICIPATED COSTS ($000'S):	10,985	34,772	20,219	22,087	24,142	26,455
DC-16 Tax Processing Mainframe Computer Systems (formerly SCRS/SCUMPS)						
ANTICIPATED COSTS ($000'S):	42,005	44,263	38,060	35,969	31,588	34,581
DC-32 Optical Character Recognition (OCR) Systems Replacement						
ANTICIPATED COSTS ($000'S):	0	5,984	6,672	6,533	1,524	1,528
DC-35 Replacement of Software Development System and Automated Documentation System						
ANTICIPATED COSTS ($000'S):	0	1,659	1,459	2,007	2,561	1,904
DC-38 ADP Disaster Recovery Plan						
ANTICIPATED COSTS ($000'S):	0	4,592	3,151	2,910	2,209	2,204
DC-41 Zilog Replacement						
ANTICIPATED COSTS ($000'S):	0	7,995	19,230	11,780	4,310	4,673
DR-1 NCC IBM Interactive Programming/Remote Job Entry System (Baseline)						
ANTICIPATED COSTS ($000'S):	2,308	3,124	1,043	331	331	331
DR-4 Distributed Input System-Baseline						
ANTICIPATED COSTS ($000'S):	25,463	26,346	11,203	9,699	10,290	11,000
DR-8 Master File Production System (Base Line)						
ANTICIPATED COSTS ($000'S):	1,143	962	900	900	900	900
DR-11 Automated Technical Refund Inquiry System						
ANTICIPATED COSTS ($000'S):	7,323	7,921	8,574	9,287	10,066	10,918
DR-16 Optical Character Recognition - Federal Tax Deposits (Baseline)						
ANTICIPATED COSTS ($000'S):	3,785	2,692	0	0	0	0
DR-19 Remittance Processing System Replacement						
ANTICIPATED COSTS ($000'S):	3,008	11,553	9,531	9,768	9,161	4,942
DR-20 Remittance Processing System - Baseline						
ANTICIPATED COSTS ($000'S):	4,834	4,022	0	0	0	0

	FY88	FY89	FY90	FY91	FY92	FY93
DR-27 Integrated Management Systems						
ANTICIPATED COSTS ($000'S):	2,500	4,210	3,315	3,330	3,208	3,214
DR-34 Automated Taxpayer Service System						
ANTICIPATED COSTS ($000'S):	0	4,629	11,053	9,215	6,406	6,261
DR-37 Migration to Current State-of-the-Art Tape Drive Technology						
ANTICIPATED COSTS ($000'S):	0	2,625	4,669	5,010	5,351	1,194
DR-38 Auto Pipeline						
ANTICIPATED COSTS ($000'S):	0	5,192	19,481	19,823	20,066	9,640
DT-2 Automated Underreporter Program (Formerly OPEX-02)						
ANTICIPATED COSTS ($000'S):	1,442	4,373	18,064	10,183	10,183	9,587
DT-3 Full Utilization of the Electronic Filing System						
ANTICIPATED COSTS ($000'S):	10,000	30,441	13,690	13,633	13,922	14,211
DT-4 Long Term Redesign of Tax Administration System (formerly TSR Phase I,II,III)						
ANTICIPATED COSTS ($000'S):	6,856	37,669	59,187	74,865	118,644	173,644
DT-5 Digital Image/Optical Data Storage System						
ANTICIPATED COSTS ($000'S):	3,004	7,251	2,180	3,581	24,907	28,136
OPC-1 Automated Collection System (ACS)						
ANTICIPATED COSTS ($000'S):	66,856	68,345	65,993	65,089	64,396	63,419
OPC-5 Integrated Collection System						
ANTICIPATED COSTS ($000'S):	25,000	28,044	58,519	57,605	47,654	65,544
OPCI-1 Automation of Criminal Investigation						
ANTICIPATED COSTS ($000'S):	0	4,314	14,899	13,035	12,604	9,061
OPCI-4 Criminal Investigation Nationwide Radio System Replacement						
ANTICIPATED COSTS ($000'S):	0	3,645	3,975	4,305	4,635	4,965
OPEX-4 Computer Assisted Audit Program (CAAP)-Primary						
ANTICIPATED COSTS ($000'S):	6,594	6,634	6,576	6,550	6,580	6,869
OPEX-14 W-4 Program Updatable Data Base						
ANTICIPATED COSTS ($000'S):	2,089	1,957	1,440	1,503	1,557	1,613

	FY88	FY89	FY90	FY91	FY92	FY93
OPEX-16 Automated Examination System						
ANTICIPATED COSTS ($000'S):	128,767	171,762	186,662	167,708	166,314	131,400
OPI-2 International Automation Enhanced						
ANTICIPATED COSTS ($000'S):	0	3,710	1,323	907	619	619
PMHR-1 Automated Training System						
ANTICIPATED COSTS ($000'S):	3,657	4,290	4,490	3,971	2,161	1,953
PMHR-2 Centralized Inventory and Distribution System (Formerly PMS-02)						
ANTICIPATED COSTS ($000'S):	18,853	20,552	21,005	19,867	19,146	19,052
PMHR-9 Personnel Management Information Telecommunication System						
ANTICIPATED COSTS ($000'S):	7,566	10,712	11,111	11,747	12,627	13,167
PMHR-11 Federal Standard Civilian Payroll System						
ANTICIPATED COSTS ($000'S):	6,644	8,713	7,284	7,391	7,512	7,650
PMHR-14 Integrated Telecommunications Network (Formerly PMS-14)						
ANTICIPATED COSTS ($000'S):	34,739	59,594	63,531	73,503	142,922	128,183
PMHR-15 Electronic Research Service (LEXIS, NEXIS, Phinet,etc.) (Formerly PMS-15)						
ANTICIPATED COSTS ($000'S):	2,305	4,031	4,363	4,824	5,329	0
PMHR-22 Other Telecommunications (FTS, Local, other)						
ANTICIPATED COSTS ($000'S):	130,995	141,723	136,557	131,250	112,648	108,733
PMHR-24 Facilities Integrated Management System (Formerly PMS-24)						
ANTICIPATED COSTS ($000'S):	122	4,539	2,881	686	686	686
PMPFR-1 Automated Accounting and Budget Execution System						
ANTICIPATED COSTS ($000'S):	1,872	2,162	2,140	0	0	0
PMPFR-2 Automated Financial System						
ANTICIPATED COSTS ($000'S):	3,389	4,996	4,811	3,468	2,782	2,877
PMPFR-5 Treasury Administrative Processing Center System						
ANTICIPATED COSTS ($000'S):	2,344	5,119	4,714	4,690	4,308	4,739
PMPFR-7 Detroit Data Center Non-Payroll Processing System (Formerly PMS-09)						
ANTICIPATED COSTS ($000'S):	7,186	8,896	8,031	7,336	6,756	7,431
PMPFR-8 Artificial Intelligence Technology Acquisition						
ANTICIPATED COSTS ($000'S):	0	4,557	3,714	9,975	4,282	4,446

POINT OF DIMINISHING RETURNS FOR MORE STAFFING

SENATOR DECONCINI: Can you quantify for the Subcommittee as best you can, when IRS will reach that point of diminishing returns and we can begin to level off your budget spiral?

MR. GIBBS: The Service is far from the point at which additional dollars spent on revenue initiatives would bring in less additional revenue than they cost. For example, we estimate that the revenue initiatives contained in our FY 1988 budget will produce nine dollars in increased revenue for every dollar spent. We estimate that the Service could employ fifty percent more personnel (50,000-60,000 people) over the next ten to fifteen years before the theoretical "breakeven point" would be reached.

REGULATIONS UNDER THE TAX REFORM ACT OF 1986

Senator DeConcini: As you know, I am not an enthusiastic supporter of the new Tax Reform Act passed last year, in fact in the final analysis, I voted against the bill. Nonetheless, it is now a bill we must live with. I would first commend the IRS for admitting its mistake and reissuing a new W-4. Also I am pleased that you have agreed to waive penalties for tax year 1987 for underwithholders who are confused by the new W-4. I hope that the IRS will now devote equal speed and diligence to the writing of regulations to accompany the Tax Reform Act. One thing that my constituents continually complain about, is the amount of time it takes new regulations to be written. No doubt many of them don't like the new provisions, but somehow it adds insult to injury when they have to wait to know how the law will be implemented. What kind of progress are you at the Service making on writing regulations for the Tax Reform Act?

Mr. Gibbs: The IRS already has provided a substantial amount of guidance under the new Act, and we expect to be providing much more during the next few months.

On October 23, 1986, one day after the 1986 Act became law, the Service issued News Release IR-86-143, listing 76 provisions of the Act that were being given priority for early guidance. By the middle of March, some guidance had been issued in almost half of the priority areas identified in IR-86-143. Guidance under the 1986 Act also had been provided in many areas that were not on the October priority list, but which subsequently were identified as areas for which there was a pressing need for early guidance. Specifically, through March 13, 1987, there were 26 Notices, 17 Announcements, 13 Revenue Rulings, seven regulations and numerous press releases. Additional guidance under the Act has been provided in various tax forms, instructions to forms, and publications. Taken together, these items of guidance cover a broad range of issues arising under the 1986 Act. It is anticipated that guidance will be issued under many more provisions of the Act during the next few months.

You may have noticed that the IRS is taking a different approach to providing guidance under the new Act than was taken for

prior legislation. We're not taking the traditional approach of relying primarily on comprehensive regulations -- experience has shown that this takes too long. Instead, essential issues are being addressed first, and less important issues will be addressed later.

And we're using a variety of vehicles to address the essential issues. These include: short regulations, Announcements, Notices published in the Internal Revenue Bulletin, Revenue Procedures, Revenue Rulings, private letter rulings, forms, instructions to forms, special publications, and press releases.

Questions Submitted by Senator Pete V. Domenici

AUTOMATED EXAMINATION SYSTEM/WASTE, FRAUD AND ABUSE

Senator DOMENICI: Your Automated Exam System is an ongoing major procurement to automate and streamline the examination of tax and information documents.

I understand that on September 7, 1984, a system analysis and design contract was awarded to Arthur Andersen and Company, which resulted in about 10 task orders for a total of about $22 million. A recent IRS Internal Audit Report apparently revealed that IRS and the systems analysis and design contractor underestimated by about $7 million, the amount of effort required to complete the contract.

How did this mis-estimate occur and what steps are you taking to prevent this type of waste at IRS?

Mr. GIBBS: Most of the Examination activities to be automated by the Automated Examination System (AES) to date have been manual operations, including the highly complex auditing work of the field revenue agents. The contractor did not fully recognize the magnitude of the job, nor did the IRS staff realize the extent to which the contractor would require consultation on Examination processes. The immensity of the task which resulted in the added cost is evident in the contractor's final product of approximately 7,000 pages. After review of the contractor's work, Service officials concluded that the IRS could not have performed the task at a lesser cost.

With the experience gained over the last year, additional training of personnel, and the full time support of a contracting specialist, statements of work are being more precisely drawn. The work is measureable in smaller products with closer review. Also, AES project staffing was increased to provide day-to-day involvement with the work of the design contractor. Thorough monthly assessments provide further means of monitoring the progress and cost of the design effort.

REVENUE INITIATIVE: UNFILLED SLOTS & RESULTS TO-DATE

Senator DOMENICI: Your fiscal 1987 budget request included an examination revenue initiative that provided IRS with an additional 2,500 positions for the current fiscal year.

How much of the increase in onboard strength represented a filling of positions that were authorized BEFORE the revenue initiative was started, but were vacant?

Mr. GIBBS: We do not differentiate every Examination hire as either an attrition replacement or an expansion position. In the last quarter of FY 1986, we used all of the budget supplemental funds authorized by the Congress as well as our own to hire 3,800 Examination personnel, including 2,080 revenue agents and 487 tax auditors. This represented a combination of replacement and expansion hiring. Our field personnel were encouraged to bring on board all the quality personnel available in their regions, and we are satisfied that every effort was made to reach full hiring goals.

Senator DOMENICI: How many of the new positions added by Congress last year have been filled; how many are vacant; and what are the prospects for being fully staffed to your FY 1987 levels before October, 1987? Be specific.

Mr. GIBBS: We began FY 1987 with a total of 14,400 revenue agents, and expect to end the year with 15,700 revenue agents on board. We will hire 2,500 revenue agents to achieve this net growth of 1,300 positions, because 1,200 positions will just replace attrition. This net growth does not include the 2,080 revenue agent positions that we hired during the last quarter of FY 1986.

BIENNIAL BUDGET CYCLE

Senator DOMENICI: Would your agency favor a biennial budget process? What difficulties can you forsee in preparing and submitting a two-year budget to the Congress? If you oppose the biennial budget concept, please give this subcommittee your reasons why.

Mr. GIBBS: I understand that OMB is studying the biennial budget proposal and will provide an administration response. Personally I believe the proposal has merit. There are several areas where we should agree in advance on basic ground rules. For example, procedures to acquire resources for the timely handling of unanticipated workload growth and legislation in the budget off year. Another tool that has been instrumental in the past in allowing us to react to a rapidly changing resource environment is the appropriation transfer authority. I believe we need the transfer authority on a permanent basis and consideration should be given to increasing the percent allowed.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until Monday, March 9 at 9:30 in Senate Dirksen 192 when we will have the General Services Administration, the National Archives and Records Administration, and most of the Executive Office of the President, including the National Security Council.

[Whereupon, at 12:05 p.m., Friday, March 6, the subcommittee was recessed, to reconvene at 9:30 a.m., Monday, March 9.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

MONDAY, MARCH 9, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senator DeConcini.

GENERAL SERVICES ADMINISTRATION

STATEMENT OF TERENCE C. GOLDEN, ADMINISTRATOR

ACCOMPANIED BY RAYMOND A. FONTAINE, COMPTROLLER

OPENING STATEMENT

Senator DECONCINI. The subcommittee will come to order. This morning the Subcommittee on Treasury, Postal Service, and General Government will receive testimony from the General Services Administration, The National Archives and Records Administration, and most of the agencies which make up the Executive Office of the President, including the National Security Council. We will also receive testimony on the operation of the White House residence.

The purpose of this hearing is to review the fiscal year 1988 budget and any supplemental 1987 budget requests for these agencies which come under the jurisdiction of the Treasury, Postal Service Subcommittee.

Before we turn to our first witness, let me briefly explain why this subcommittee has decided to call the National Security Council [NSC] to testify separately from the other agencies in the Executive Office of the President.

First, since 1981 the subcommittee has never had this critical agency come before the subcommittee and testify separately on its budget. In fact, I am informed that it has been nearly 36 years since the NSC has had a separate budget oversight hearing on its operation, so, I think it is long overdue.

Second, unless one has been living in a cave, it is no secret that the Council has come under intense scrutiny because of the prominent role

in what has become known as the Iran/Contra episode. The responsibility of this subcommittee is to review the operations and the budget requests of a number of agencies and departments, including the National Security Council. And over the past 2 months, the leadership, and presumably structure and procedures of the Council have changed rather dramatically. This subcommittee should review these changes as part of its duty to review agency budgets and activities.

Finally, I felt that the public should have an opportunity to learn about the budget of this small, but critical, agency in the Executive Office of the President and how it is spending the taxpayers' money. Although the special select committee that will review the Iran-Gate affair may examine the role that the NSC played in the tragic affair, they have no statutory authority over the budget or operation of the Council. That is where this particular subcommittee may step in.

Nevertheless, it is not our intention to make this hearing a witch hunt or to try to preempt in anyway the work of the select committee in the House or the Senate. We are here to learn about the changes in the National Security Council and what their resource requirements will be next year. I look forward to the testimony.

PREPARED STATEMENT

Our first witness today is Mr. Terence Golden, Administrator of the General Services Administration. Mr. Golden will be testifying on the fiscal year 1988 budget of the GSA. Mr. Golden, we thank you for your cooperation and the assistance your people have given this committee in preparing for today and at other times. You may proceed with summarizing your statement, and your full statement will appear in the record as if read.

[The statement follows:]

STATEMENT OF TERENCE C. GOLDEN

I am pleased to appear before you today in support of the fiscal year 1988 budget request for the General Services Administration (GSA).

GSA's fundamental purposes are to serve as the Federal Government's administrative policy unit and to provide centralized services only where there are significant economic or quality advantages to having GSA perform the function. Our activities are numerous and diverse. We help manage and oversee the government's telecommunications and ADP programs. We regulate and provide goods and services to Federal Departments and Agencies. We manage a significant portion of the Government's real estate holdings with the goal of providing quality, economical space for Federal employees. GSA is responsible for the disposal of surplus property, treating it as an asset to be managed as in the private sector. We also manage the Government's stockpile operations, including the acquisition and storage of critical materials as well as the disposal of excess materials. Finally, we help set acquisition policy for the Federal Government.

To put our request in perspective, GSA's total obligations will be approximately $7.7 billion in fiscal year 1988. Most of our operations are funded by customers through payments for goods and services procured under GSA's revolving funds, by rental payments for space occupied in GSA-controlled buildings, or by direct reimbursement for services. We have requested new budget authority from your Subcommittee, including certain reductions under proposed legislation, of only $266.3 million for Fiscal Year 1988.

The Fiscal Year 1988 Budget reflects the following major goals and objectives:

1. Continue to Streamline the Agency

2. Provide a Quality Workplace for Federal Employees, Consolidate Agencies, and Reduce Space
3. Own Space Where Economical, Test New Acquisition Procedure
4. Address Health and Safety Issues in Federal Buildings
5. Complete Delegations of Buildings Management to Agencies
6. Improve Federal Supply System; Provide "Industrial Funding" for Operations
7. Improve Quality and Reduce Costs for Goods and Services Procured
8. Modernize Government's Telecommunications System (FTS)
9. Help Modernize ADP Systems; Reduce Acquisition Time
10. Increase Disposal of Surplus Federal Property

First, we will continue to streamline the Agency, thereby providing the most effective and efficient service to our clients and the American taxpayer. Our request of $266.3 million represents a decrease of $129.5 million, or 33%, below the amounts appropriated by the Subcommittee for GSA in fiscal year 1987. Our planned total employment level by the end of fiscal year 1988 will be less than 21,000, a reduction of more than 20 percent over a 3-year period.

We have achieved significant reductions by improving management, providing industrial funding under proposed legislation for the Federal Supply Service, and operating stockpile management under the Stockpile Transaction Fund. The budget reflects the savings that we have accomplished from streamlining efforts over the last 18 months, including:

-- reducing management layering and duplication throughout the Agency, including the consolidation of certain management functions from three GSA regions;
-- consolidating from five to two finance offices;
-- reducing supply depots from nine to five;
-- consolidating from nine to five zones in the Information Resources Management Service; and

-- streamlining headquarters operations, including reducing certain staff support functions in headquarters by 33%.

Within these reduced totals, we have provided for certain critical budget increases in fiscal year 1988. First, we have increased support for the Inspector General by $1.2 million to enhance efforts designed to combat waste, fraud, and abuse. Second, we are continuing efforts to strengthen our physical plant and to modernize it. The budget reflects depot modernization and new materials handling equipment for the Federal Supply Service, enhanced capabilities in the area of financial systems, and additional resources for ADP modernization. Third, we have budgeted $47 million to assist agencies in relocating from underutilized properties, thereby enabling GSA to dispose of valuable properties that are surplus to the Government's needs.

Federal Buildings Fund

Our budget requests $2.9 billion in new obligational authority for the Federal Buildings Fund.

A major priority is to move toward the ownership of space where economically advantageous to the Federal Government. Our request includes appropriations language for a major project in Oakland, California, where the city of Oakland has agreed to give land to the Federal Government, erect a facility on the site, and lease back the facility to the Federal Government over a 30-year period. At the end of the lease, the Federal Government will own the facility. We estimate present value savings from this transaction, when compared to leasing, of approximately $100 million over 30 years.

To increase ownership where economical and reduce GSA's large rental bill, we have budgeted $150 million for building purchases. We have used the buildings purchase program to

acquire a single facility that meets the Government's requirements and thereby avoid rental payments. We have also used this program as leverage to accomplish major agency consolidations by purchasing an initial facility, and simultaneously acquiring options to enter into long-term leases for additional adjacent space over subsequent years. Purchase options are included in these long-term leases. Through this mechanism we are able to consolidate agencies and thereby enable them to achieve significant cost savings and management efficiencies. Over the last 18 months, we have purchased buildings in Miami, Atlanta, and Washington, D.C. In fiscal year 1988 we anticipate continuing this high prority program, focusing on cities and surrounding areas where large Federal populations are now housed in leased space.

The Fiscal Year 1988 budget includes $443.9 million for repairs and alterations, an increase of $174 million above the amount available in Fiscal Year 1987. Within this category we have targeted $94.3 million for health and safety programs and an additional $26.7 million for elevator modernization and repair. Health and safety efforts include the second phase of a 3-year program to remove polychlorinated byphenal (PCB) transformers. Other priorities are to undertake priority asbestos abatement projects and address fire safety deficiencies within Federal facilities. As the Committee is aware, we recently revised regulations concerning smoking in Federal facilities in order to enhance conditions for Federal workers and visitors.

Another priority within the budget for repairs and alterations is to recapture vacant space. We have identified 14 projects where we have the opportunity to modify space and occupy it with tenants currently housed in leased space. These modifications will result in significant savings to taxpayers. Further, our budget devotes resources to the modernization of existing

facilities in GSA's inventory. The backlog in this area is considerable, and inventory modernization is a business practice fundamental to sound real estate management.

We have undertaken a major effort to provide a quality work space environment for Federal employees while reducing the total amount of space used by the Federal government. Through the judicious use of systems furniture and modern facilities, we anticipate being able to reduce Federal space requirements over the long-term by approximately 20 million square feet. Such a reduction will produce annual savings in excess of $300 million. Providing modern buildings that are convenient to transportation and include day care and physical fitness facilities, will enhance the productivity of the Federal work force.

The budget for the Federal Buildings Fund reflects plans to accomplish the delegation of day-to-day buildings and lease management functions to our tenant agencies. We began this program in fiscal year 1986 and anticipate completing it by the end of fiscal year 1987. This program will produce better managed facilities throughout the Federal inventory, thereby enabling GSA to concentrate its efforts on overall asset management. Under the fiscal year 1988 budget, agencies will continue to pay their rental charges to GSA through the Federal Buildings Fund. In turn, GSA will transfer to agencies amounts for appropriate expenses incurred for delegated functions.

Other activities requested under the Federal Buildings Fund for fiscal year 1988 include: rental payments, where the roll-over of long-term leases has resulted in escalating costs; design services, where we must plan in advance for certain projects to assure their timely accomplishment; purchase contract payments, which are necessary to meet obligations incurred under that program in prior years; real property operations, which cover

day-to-day maintenance and operating costs for GSA-controlled facilities as well as the significant law enforcement activities of the Federal Protective Service; and program direction, where we fund overall program management and a number of centralized support services.

In summary, we believe that the anticipated revenues in the Federal Buildings Fund for fiscal year 1988 are adequate. Given the requirements placed upon the Fund, the Administration supports charging full market rates for space occupied by agencies. We oppose any efforts to place arbitrary restrictions on the amount of revenues available within the Fund.

Federal Supply Service

The fiscal year 1988 budget request for the Federal Supply Service proposes to convert funding from direct appropriations to recoveries from Agencies through the General Supply Fund. This "industrial funding" system, for which we will submit legislation to the Congress, will require Agencies to budget for the full cost of their operations. GSA's facilities and services will be used only to the extent that they are cost effective. This will enable the Federal Supply Service to operate according to the marketplace.

We believe that revising the funding procedure for the Supply Service will benefit Federal agencies. Under the present arrangement of direct appropriations for some functions and reimbursement for others, we are frequently unable to respond to agencies' requirements. There is insufficient coordination between the agencies' budgets for goods and services and GSA's budget to deliver those items. Under a full cost recovery system, the Supply Service will expand, or contract, with agencies' requirements. Further, the Subcommittee will maintain oversight through review of the General Supply Fund activity and the ability to place a ceiling upon the surcharge, which represents the Supply Services expenses.

Operating the Supply Service through industrial funding is consistent with practices for the majority of GSA's activities. Public buildings activities, certain information resources functions, and transportation programs are all funded today from appropriations available to Agencies. Indeed, GSA's basic function, to provide centralized services where cost effective, suggests that the overwhelming majority of our activities should be funded by the customer.

With this change in funding under proposed legislation, the total budget request for the General Services Administration will be reduced by $169.2 million. This reflects a reduction of $176.7 million through eliminating the direct appropriation for the Supply Service, offset by $7.5 million for transportation costs that will now be funded from overcharge collections under permanent appropriations.

The operating costs of the Supply Service in Fiscal Year 1988 reflect our continued efforts to streamline. We have reduced from nine to five depots, and have reduced from 17 to 12 customer supply centers. To achieve these savings, while at the same time carrying out an expanding workload, it is imperative that the remaining facilities be fully modernized, including up-to-date material handling systems. We are currently exploring the establishment of a new, privately provided and operated facility in the Northeast to minimize costs. We also are in the process of evaluating plans to replace the Fort Worth facility with a more modern physical plant or to upgrade the existing facility.

Within the budget for the Supply Service, we have invested in the modernization of physical plant and support systems. We've included monies for new ADP software development and materials handling equipment. Our intent is to create a fully modern system that meets the needs of Agencies effectively and efficiently.

Over the past 18 months we have undertaken numerous management improvements to the supply system. Placing greater reliance on direct delivery of goods, as opposed to warehousing, not only has proven economical but has reduced GSA's staffing, budgetary, and facilities requirements. Requiring agencies to procure certain low cost items locally has produced savings. Further, we have made use of contractor-assisted reviews to determine the optimum location and number of facilities, as well as to examine the impact of centralized supply operations for the Federal government.

In the transportation area, we believe that greater consolidation of the government's fleet will produce significant savings. In fact, several agencies have approached GSA to take advantage of our consolidated fleet management system, and we plan to consolidate 75,000 additional vehicles over the next five years, thereby almost doubling the size of GSA's inventory. We have converted to a 3-year replacement cycle because of the economic advantages. We also are developing a nationally-recognized credit card system for fuel and maintenance purchases, and are standardizing fleet cost accounting procedures.

Finally, the budget reflects our intent to expand contract audits of transportation billings to detect and collect overcharges by commercial carriers. Costs for the expansion are fully financed from collections. Our total audit effort in Fiscal Year 1988 will produce recoveries of $55 million.

Information Resources Management Service

The fiscal year 1988 budget request for the Information Resources Management Service is $32.6 million. Essentially, this represents the funding level of the prior year, adjusted for inflation and certain other costs. The majority of activities conducted by this Service are funded through reimbursements from Federal agencies.

Our major telecommunications effort is to replace the existing, outdated Federal Telecommunications System (FTS) with a modern, cost-effective system that meets the needs of Federal agencies. This new system will take advantage of the competition within the industry brought about by divestiture. Further, the Federal Government will benefit from the privatization of operations, as we will rely fully upon the private sector to supply services under the new system. We will remove the federal government from the day-to-day operation and ownership of a telephone system.

As we are paying for services under FTS 2000, there will be no capital investment requirements for the Federal government. We will use private capital to finance acquisition and installation of equipment making up the system, taking advantage of the significant capital investment occurring within the telecommunications field. Once the system is fully implemented, we anticipate savings to the Government of $100 million annually.

FTS 2000 will begin providing services in 1988, with the full system in place by 1990. Other major projects, which will be completed by that date, include the Aggregated Switch Procurement and the Washington Interagency Telecommunications System (WITS). They will enhance local services to Federal installations nationwide. We anticipate that the resources available within the newly established Information Technology Fund will be adequate to support these projects.

We are also taking a number of steps that are designed to help the Government modernize its computers and to use information technology effectively. We are working with several Agencies to reduce the time required to procure systems to approximately 12 months after funds are available. We are also developing plans to make use of the multi-year contracting authority established last year for information technology resources.

Federal Property Resources Service (FPRS)

The Administration's Fiscal Year 1988 budget projects receipts of $400 million from the disposal of real property. This represents an increase of about 300 percent above existing levels. We intend to treat real property as an asset to be managed as in the private sector.

To help achieve this goal, our budget includes a new program of $47 million to relocate agencies from underutilized properties to more suitable sites. In the past we have experienced difficulties where Agencies agree that a certain property should be excessed, but have insufficient funds to relocate operations. This request will assist Agencies to relocate. We will target the resources on high value excess properties.

Our request for FPRS' operations in Fiscal Year 1988 is $12.2 million, a decrease of almost $27 million below the prior year appropriation. The reduction reflects the funding of stockpile management costs through the National Defense Stockpile Transaction Fund, as well as streamlining efforts.

Management and Administration

In addition to organizational streamlining and overall reductions in our support functions, we are taking a number of steps to enhance the capabilities of the Agency to meet its obligations over the long-term. We've started an ambitious personnel program that includes the rotation of senior and mid-level personnel between regional offices and headquarters, enhanced training opportunities to meet the changing requirements of operations, initiated the development of performance and qualifications standards, focused on career development, and strengthened the recruitment of highly qualified individuals at entry level positions.

In the area of financial management, we will build upon prior year's efforts to strengthen the systems essential to the Agency's operations. In Fiscal Year 1988, we will enhance data input and output capabilities by completing a plan to equip each accounting technician with a computer terminal. This will enhance the timeliness and accuracy of financial information within the Agency.

That summarizes our request for fiscal year 1988. We are not now requesting any supplemental funding in fiscal year 1987 and are absorbing the increased costs of pay raises and retirement contributions. We are requesting $61.9 million in new obligational authority in fiscal year 1987 to cover rental costs; funding from agencies, provided in part by the Continuing Resolution for fiscal year 1987, is available within the Federal Buildings Fund for this activity.

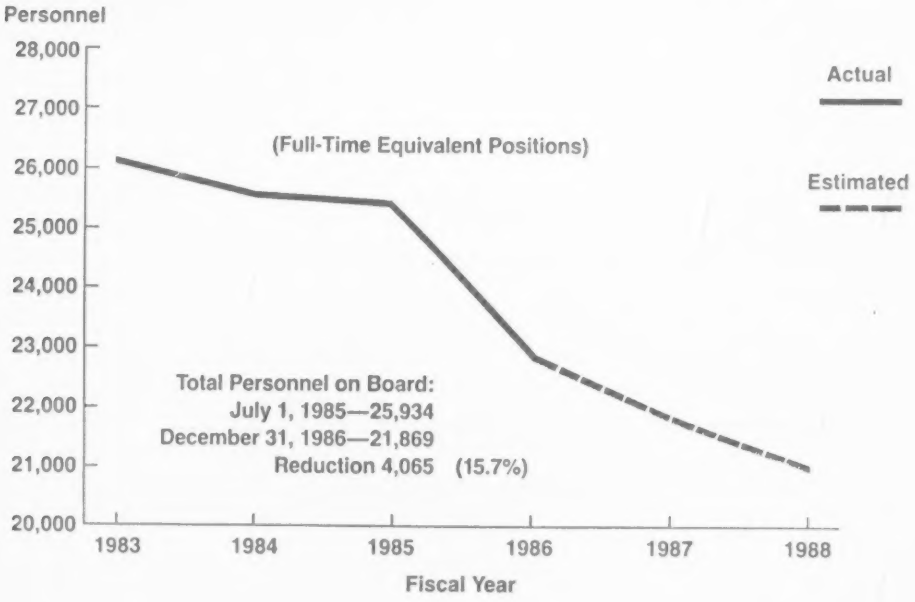
Before closing, I would like to express my appreciation to the Subcommittee for their prompt consideration of certain reprogramming actions that have been required during the last year. In my testimony on the Fiscal Year 1987 budget, I noted that the reductions required by Gramm-Rudman could be implemented by GSA without any major dislocations or reductions-in-force. I also noted that we would need the Committee's assistance to reprogram certain funds from time to time in order to minimize the impact upon the organization and its employees. We have accomplished these goals with the assistance of the Subcommittee.

Mr. Chairman, that concludes my opening remarks. I will be glad to answer any questions that the Subcommittee may have.

Major Goals

1. STREAMLINE AGENCY
2. REDUCE SPACE UTILIZED BY THE FEDERAL GOVERNMENT
3. DEAL WITH CRITICAL SAFETY ISSUES IN FEDERAL BUILDINGS
4. MOVE TO OWNED SPACE WHERE ECONOMICAL
5. DELEGATE BUILDINGS MANAGEMENT TO AGENCIES
6. STREAMLINE FEDERAL SUPPLY SYSTEM
7. IMPROVE QUALITY OF MATERIAL PURCHASED BY THE FEDERAL SUPPLY SYSTEM
8. MODERNIZE GOVERNMENT'S TELECOMMUNICATIONS SYSTEM
9. REDUCE TIME REQUIRED TO ACQUIRE ADP SYSTEMS
10. INCREASE DISPOSAL OF SURPLUS FEDERAL PROPERTY

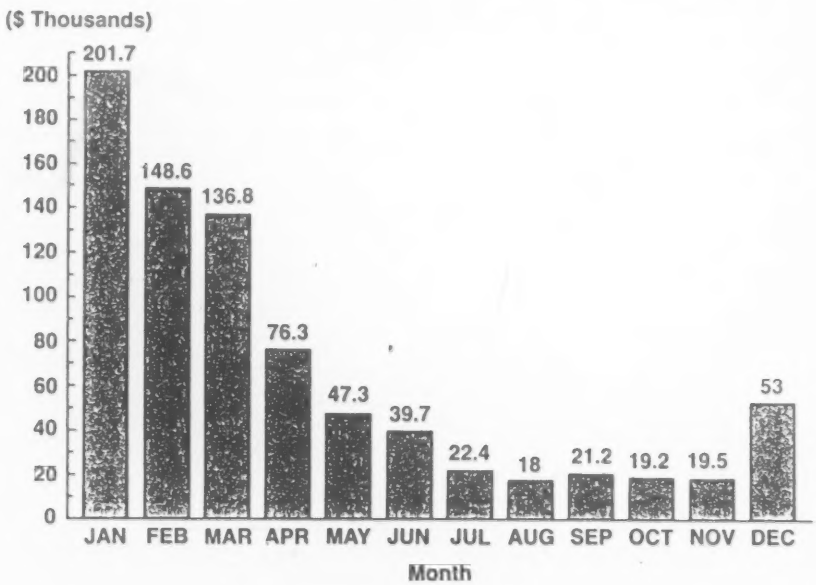
Staffing Reductions



Streamlining Actions Taken

- REORGANIZED REGIONAL STRUCTURE, ELIMINATING 30% OF MANAGEMENT OVERHEAD AND LAYERING
- STREAMLINED PUBLIC BUILDINGS SERVICE, REDUCING CENTRAL OFFICE OVERHEAD BY 20% AND NUMBER OF FIELD OFFICES BY OVER 40%
- CONSOLIDATED FINANCE FROM 7 TO 2 ZONES
- REDUCED SUPPLY DEPOTS BY 44% AND CUSTOMER SUPPLY CENTERS BY 33%
- REDUCED CENTRAL OFFICE ADMINISTRATIVE STAFF BY 33%

Financial Systems Improvements Reduction in Late Payment Penalties CY 1986



Building Acquisition Program

Goals: Achieve Space Reduction, Accomplish Agency Consolidations, Achieve Economic Advantages of Ownership, Provide Modern Facilities

Project	Sq. Feet (000)	Price ($ mil.)
Dallas, TX (1983)	160	$ 7
Judiciary Sq., DC (1984)	85	13
IRS/VA Cntr., Austin, TX (1985)	610	27
Miami, FL (1986)	137	14
Rockville, MD (1986)		
Phase I	277	47
Phase II	325	53
IRS Center, GA (1986)	319	13
Silver Spring, MD (1987)		
Phase I	140	22
Phase II-V	1,050	215
Miami, FL (1987)	250	45
Chicago, IL (1987)	600	110
Oakland, CA (Proposed)	800	150
Total	4,753	$716

Commerce Consolidation

Agency	Locations		Utilization Rate		Space Savings (Sq. Ft.)	30 Yr. Present Value Space Savings ($ Millions)
	Existing	Proposed	Existing	Proposed		
NOAA	14	2	174	135	160,000	44.5
Census	5	1	127	127	—	—
Intn'l Trade Admin/ Bur. of Econ. Aff.	2	1	200	135	21,000	5.8
Total	21	4	169	133	181,000	50.3
			Savings from Ownership			105.8
			Total Savings			156.1

Note: No Changes Contemplated for
National Bureau of Standards (Gaithersburg)
or Patent and Trademark Office (Crystal City)

Reduce Time Required for Acquiring ADP Systems

- CURRENT ADP PROCESS—FROM CONCEPTION OF PLAN TO INSTALLATION OF EQUIPMENT—TAKES ABOUT 3–8 YEARS.
- GOAL IS TO REDUCE THIS PROCESS SIGNIFICANTLY. ADDITIONAL GOAL IS TO REDUCE THE ACQUISITION TIME TO 12–18 MONTHS.
- PILOT PROJECTS HAVE BEEN INITIATED WITH NAVY, HHS, NASA, AGRICULTURE, AND COMMERCE.
  - — WILL CONDUCT PARALLEL FINANCIAL AND SYSTEMS REVIEWS WITHIN AGENCIES AND WITH EXTERNAL REVIEWERS (GSA AND OMB).
  - — RESULTS ANTICIPATED IN 1987 AND 1988.

Modernize Telecommunications System

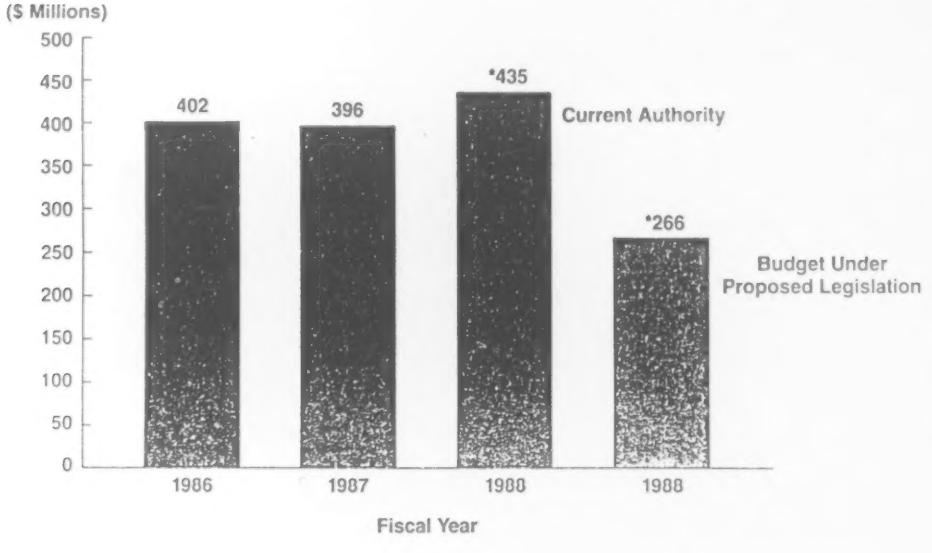
EXISTING SYSTEM	PROPOSED SYSTEM
ANALOG	DIGITAL
OUTDATED	STATE-OF-THE-ART
MAINLY VOICE	VOICE, DATA, VIDEO
MANAGED BY GSA	MANAGED BY PRIVATE INDUSTRY
SUBSTANTIAL CAPITAL INVESTMENT; COSTLY TO OPERATE	NO CAPITAL INVESTMENT; SERVICES PURCHASED AS NEEDED

STATUS:

- RFP ISSUED IN DECEMBER 1986
- AWARD FOR NEW SYSTEM BY END OF 1987
- POTENTIAL GOVERNMENTWIDE SAVINGS: $100,000,000 PER YEAR

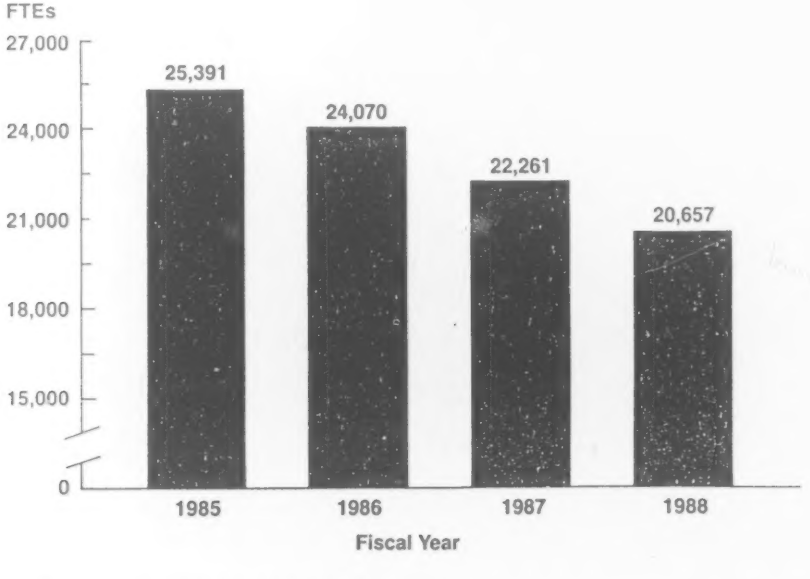
72-959 O—87——19

1988 Operating Budget



*Includes $47 Million for Relocation Initiative.

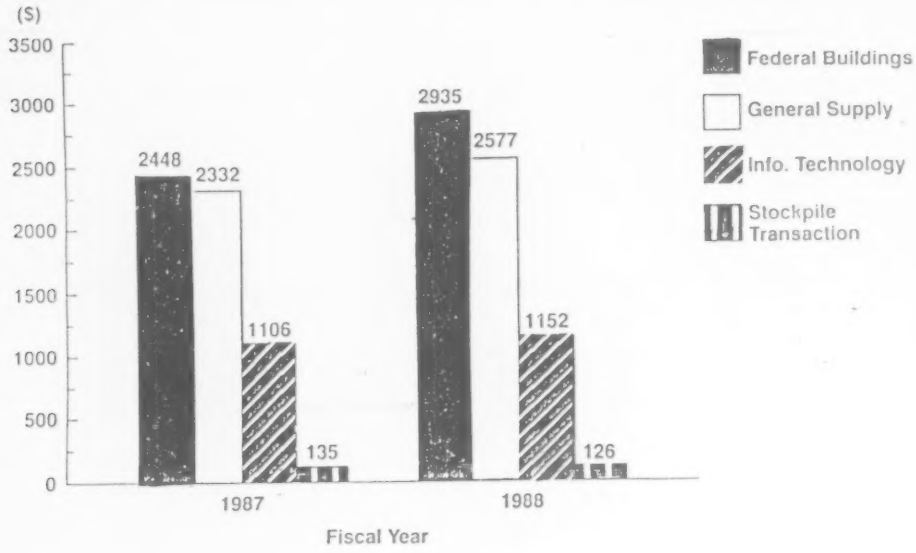
1988 Budget
Full-Time Equivalent Positions[1]



[1]Reflects streamlining and delegation program.

Major Funds

(Obligations in $ Millions)



Repair & Alteration Program

	($ MILLIONS) FY87	FY88	5YRS
Health & Safety			
—PCB	$ 27	$ 21	$ 68
—Asbestos	17	27	250
—Fire Safety/Sprinklers	34	46	350
Elevators	15	30	80
Vacant Space	28	71	265
Modernization	128	211	3,737
Courts	21	38	250
Total	$270	$444	$5,000

Alternative Financing: Test Case

- 1988 Budget Includes Test of Alternative Financing To Gain Benefits of Ownership
  - — No Real Estate Taxes
  - — Lower Financing Rates
  - — Equity Build-up
  - — No Tax Expenditure
  - — No Developer's Profit
- Test is Project in Oakland, Ca., Where GSA Will Lease Facility to be Constructed by City, With Title Passing to Federal Government After 30 Years
- Estimated 30-year Present Value Savings From Oakland Project is Approximately $100 Million
- If Test is Successful, Additional Projects will be Pursued in Future Years
- 1988 Budget also Includes $800,000 for Planning an International and Cultural Trade Center at Federal Triangle

Industrial Funding

- Budget Proposes to Convert Funding of Federal Supply Service from Direct Appropriations to Recoveries From Agencies Through General Supply Fund
- Supply Service Operations will be Operated Similar to Private Enterprise
  - — Totally Dependent Upon Market Place Demand
  - — Size Directly Dependent Upon Income
- True Costs of Goods Charged to Agencies' Budgets
- Greater Management Flexibility to Respond to Emergencies
- Budget Savings of $169 Million

Major Modernization/ADP Enhancements
($ Millions)

	88 Budget
Supply Systems (FSS-19)	$3.8
Depot Modernization	$5.4
PBS/Information Systems (STRIDE)	$7.0
Financial Systems	$1.2

MAJOR GOALS AND OBJECTIVES

Mr. GOLDEN. Thank you, Mr. Chairman. Thanks for the opportunity to be here today. I particularly want to express my appreciation concerning the support we have received from this committee. I feel we have had a good working relationship with the committee and with the staff and feel like we have been very well supported in the past.

I would like to submit a written statement for the record and would just like to briefly summarize where we are at GSA. I would like to discuss what we have accomplished to date, where we are as far as the budget is concerned, and then discuss three major issues that exist in our fiscal year 1988 budget. I have some charts that I would like to go through with you.

When I came to GSA some 20 months ago, I spent some time prior to stepping into the Administrator's role talking with the career and political leadership of the agency, visiting with people on the Hill, and at OMB and elsewhere. As a result of that process, we established what we refer to as our 10 major goals and objectives for GSA.

Our method, rather than a scattergun approach, has been to concentrate on a few things and try to make progress with them. I have listed what those goals and objectives are, and rather than reading through them, I would just say that our focus is on these as priorities, and we are sticking to that very fundamental approach. I think this method is beginning to pay off.

STAFF REDUCTIONS

We are very satisfied with the work we have done as far as streamlining the agency is concerned. The chart displayed shows that we have reduced our staffing by approximately 4,000 work-years. There are several things I am very proud of in that regard. No. 1, is that this reduction has been accomplished without a reduction in the efficiency or performance of the agency. During this process, as a result of careful organization and planning, we have put less than 200 people on the street overall.

Now, the question is, how did we accomplish this? We took a number of streamlining actions, in areas where we did not reduce our productivity, but rather focused on areas of overhead and areas where we were less than efficient.

AGENCY STREAMLINING

We reorganized our regional structure, eliminating about 30 percent of our management overhead and layering. We have reduced our central office by over 20 percent, and the number of field offices by 40 percent. We have consolidated finance and now have two centralized finance operations, rather than one in each of the regions. And finally, we have made a significant improvement in the Federal Supply Service, reducing the number of supply depots by 44 percent and the supply centers by 33 percent. Not only does that represent savings in staffing, but in terms of material, inventory, and space costs as well, it represents a significant improvement. One of the benefits that we have had is improvement in the late payment penalties that we pay.

As a result of centralizing our finance operations in Kansas City and Fort Worth, we have gained much better control over our payment system; reducing our late payment penalties by approximately 60 percent.

I am quite proud in the Public Buildings Service of our building acquisition program. We are focusing not only on reducing the square footage and moving from leased to owned space but, in addition to that, we have assigned a high priority to providing our Federal worker with a high-quality work environment, one where he can be productive and efficient.

BUILDING ACQUISITION PROGRAM

We have placed an increasing emphasis on the building acquisition program, and have included in this a project in Oakland which is a part of our fiscal year 1988 budget. The acquisition program has been a very successful program for us. We have saved probably 25 to 30 percent by buying existing buildings owned and by the private sector.

We just recently purchased a building, and as a part of that transaction had an option to acquire an additional building, a second phase to it. Now, the construction time involved is on the order of 24 months. Typically our whole process for getting a building designed and built in the Federal Government can stretch to 5 and 6 years. So, the building acquisition program which relies on the private sector to actually deliver the building, has really paid off for us overall.

COMMERCE CONSOLIDATION

One of the things I was very pleased to announce several weeks ago—and this is just an example of what can be done with a successful building acquisition program—we jointly announced with the Department of Commerce a long-range master plan for the Department of Commerce. Once this is completed, and we have the basic building blocks already underway, we will have final consolidation of the Department of Commerce in Washington, DC.

Commerce today is some 21 separate locations in Washington, DC. As a result of this space plan we will consolidate the Department into four different locations, a dramatic reduction in the number of separate buildings that they occupy currently. Commerce estimates that just in administrative costs within their own operations, the savings in transportation, travel time, people moving around, personnel, procurement officers, and improved efficiency of their own operations, they are going to save some $5 to $7 million.

Part of this space consolidation plan was an acquisition of approximately 1.3 million square feet in Silver Spring to consolidate the National Oceanic and Atmospheric Administration. One of the benefits of NOAA's move into this new building will be to reduce the square footage and improve the space utilization within the new building.

The Department of Commerce will reduce from 169 square feet per person to 133 square feet per person, saving 181,000 square feet overall. That represents a savings over a 30-year period, on a net present value basis of some $50 million, a tremendous savings in space cost.

IMPROVED WORK ENVIRONMENT

What I am particularly pleased to see happen, though, is that we are not moving people into smaller space only. We are moving them into much higher quality space. This is all going to be a quality environment with systems furniture, modern telecommunications and good automation systems. We will have a much more efficient space for our Federal worker and we can be a lot more productive as a result of it.

Finally, moving from leased space into owned space will save us $105 million over a 30-year period. This is part of the future as far as GSA is concerned. We definitely have a long-term established need for space, and in most cases, we should own it rather than lease it.

SYSTEMS UPDATE

Speaking of several other areas within GSA, in the information resources management area we are making a major effort to see if we can improve the efficiency of Government by getting rid of obsolete computers and obsolete systems within Government. Several weeks ago, we just finished an evaluation of our systems versus the private sector, and we discovered that the Government's computers are on average 10.4 years in age. That of the Fortune 500, as a contrast, is 4.8 years. So our Government computers are about twice as old as those in the private sector.

This means many things from our perspective. That lack of efficiency results in lower efficiency in terms of delivering service in Social Security and the IRS area and many other areas in Government. It seems to me that if we are going to have an efficient Government overall, that we need to modernize both our systems and software.

We have an aggressive program underway in the ADP area to see if we cannot streamline and simplify the procurement process to reduce the age of computers and the procurement cycle. We are also working

with OMB on methods of financing the acquisition of computers to see if we cannot speed that up as well.

We are very proud within GSA of one of the steps that we have taken this year. We issued, in December 1986, an RFP for a new telecommunications system for the Federal Government. It represents a dramatic improvement over what exists today.

The current system—and I know all of you have had the experience of operating with it—is a very outdated system. It was put into effect 25 years ago and is an analog system. It cannot handle high-speed data, and as a result is very inefficient. What we propose is a new system. It is going to be a digital system, a state-of-the-art system.

The real advantage of this is that in the future we will be able to tie all of our personal computers within a building together, and all of our computers across the country together, using modern digital communications. As a result of this we will greatly improve the efficiency of Government.

We will also move out of operating our own telecommunications system and instead will compete this business to the private sector so that we will be using the private sector's capital and their manpower rather than Federal workers.

FISCAL YEAR 1988 BUDGET

Changing our focus to the 1988 budget itself, we are requesting this year an operating budget of $266 million. This represents approximately a $130 million decrease from fiscal year 1987. I will briefly describe some of the changes that have occurred, essentially, if we were looking at the budget on a current operations basis, this represents a slight reduction in our performance for fiscal year 1987.

RELOCATION PROGRAM

There are two major changes in our request this year. First, we are requesting $47 million to fund the real property relocation program. By providing agencies with the funds to relocate, valuable underutilized property could be sold and an agency moved to a facility more suited to the agency's mission. We will consider candidates for this program where there is an economic advantage to the Government.

What we need though, is sufficient money to relocate agencies. That is why we are requesting the $47 million appropriation. The $47 million will be more than offset by the revenues generated from the disposal of the more valuable property.

As a second major initiative, we would like to industrially fund our Federal Supply Service. Currently, we supply common-use materials like paper, typewriters, and other items to the various agencies in the Federal Government. Agencies pay only for the cost of the materials out of their budgets. We have, in the past, been paying for our operating and overhead expenses out of an annual appropriations account.

What we think would be a better allocation of resources and more representative of the full cost of those materials as far as the agencies

are concerned would be to include those costs of operations with the costs of those goods that we sell to the various agencies. It puts us on a more self-funding basis, and I think from an operating point of view it makes a lot of sense as well.

As far as our employment is concerned, we show a reduction of approximately 1,500 staff years for this year. Most of that is as a result of delegations although part is the result of efficiency with a gradual decline in employment overall within GSA. It is my expectation that our employment will stabilize at approximately this level in future years.

REVOLVING FUNDS

And finally, I would like to just briefly outline where we are on our major revolving funds. We have a fund for the Federal buildings, for the general supply of merchandise and materials for the Federal Government, for information technology and for stockpile expenses.

I think, looking at it from year to year, you can see there are not many major differences. There is, however, one significant difference that I would like to outline, and that is, within our Federal buildings fund. Our budget for the Federal buildings fund is projected to increase by some 20 percent. One of the major components of this dramatic increase in our budget is as a result of leasing costs. The reason for the rent increases is the fact that approximately 75 percent of our existing leases will be turning over during the next 5 years, and as a result of that we will have higher costs overall.

REPAIRS AND ALTERATIONS

Speaking about the major issues that we face in this particular budget, as far as our repairs and alterations are concerned, one of the major problems we experience in GSA is obsolescence within the Federal buildings. On average, our Federal buildings are over 40 years old, and the difficulty that we are experiencing now is that historically there has not been a proper level of maintenance and modernization done within the Federal inventory.

We have right now 5 billion dollars' worth of work needed on our buildings. A good example would be the Pentagon, where we anticipate spending close to one-half billion dollars on that building. It needs a new roof, the electrical systems are overloaded, we have major asbestos problems, major plumbing problems, it needs new heating, ventilation, air-conditioning, and new elevators. It is a building that was built in 1940 and there have not been major repairs done to it in the intervening years.

When you look at our other buildings here in Washington, as an example, the Federal Triangle, and elsewhere, there is a tremendous need to modernize those building, as well. The No. 1 priority we have had has been in the health and safety area, getting the PCB transformers out, dealing with asbestos, putting sprinkler systems in buildings that do not have them.

It is probably the most significant priority we have within the GSA today. Essentially what we have recommended and what we did last year was stop new construction and use those moneys to deal with just these very elemental modernization needs.

LEASE PAYMENTS

The other problem that we have beyond that—and I think a very significant one—is that too much of our budget is being swallowed up in lease payments on buildings. I was amazed when I became the Administrator of GSA to discover that 49 percent of our Federal workers are housed in leased space, even where we have a stable long-term need for space.

As an example, here in Washington, DC, the Department of Transportation is in a leased building. EPA is in a leased building. It is a 1-million-square-foot building. We are currently paying $6.50 a square foot for that space and when it comes up for renewal in 2½ years, the equivalent lease cost will be in the range of $30 to $35 a foot.

We have a major problem in the sense that we are now spending $1 billion a year on lease payments. Those lease payments—because 75 percent of our leases come up for renewal over the next 5 years—are going to double to $2 billion; well beyond Gramm-Rudman, well beyond inflation, well beyond anything we can handle.

I think that one of the major priorities we need to have within GSA and within Congress is to move out of this very expensive leased space and into owned space as soon as we can.

LEASE VERSUS CONSTRUCTION

Included in the 1988 budget is a major initiative in Oakland to provide what I call alternate financing that will enable us to move from leased to owned space. Essentially, what we would like to do is work with the city of Oakland. They have agreed to give us the land for a new building, to construct the building for us, and to lease the building back to us over a 30-year period.

At the end of 30 years we will, in fact, own the building. What they intend to do is take our 30-year lease agreement and raise bond financing to finance the cost of the building and to have that bond financing amortize itself over the 30 years. From the Government's perspective we will get a high-quality building in a good location and we will be paying considerably less for it than we would were we to lease the space.

Also included in our 1988 budget is $800,000 for the planning of an International Trade and Cultural Center for the Federal Triangle. This is an important project for several reasons. One is the State Department has a strong need for exhibit space and the embassies in Washington, DC, have a need for space for their passport and commercial offices.

The District government is very supportive of this program because it provides an additional impetus and activity within the center of the city.

Senator DECONCINI. Mr. Golden, let me interrupt you just a minute, as long as you are on the subject matter of the Oakland building. I have a question here and I thought maybe we might as well just take care of it right now.

Mr. GOLDEN. Of course.

OAKLAND/SAN FRANCISCO SPACE

Senator DECONCINI. Can you shed some light on the cost-savings claims of San Francisco? They indicate that they can do it more economically. What is that all about?

Mr. GOLDEN. As you know, San Francisco has been in the last several weeks very aggressively pursuing a Federal building for the city. They have employed a lobbyist to see if they can have a building constructed in San Francisco rather than in Oakland.

Over the last 3 weeks we have been in the process of doing an evaluation of the cost of buying a building in San Francisco and comparing the results to the package that Oakland has offered. I expect that the study will be available in the next 2 or 3 days.

Senator DECONCINI. Will that study include the possible combination of Bay area space—some in Oakland and some in San Francisco?

Mr. GOLDEN. We are looking at the costs of building in San Francisco and the costs of building in Oakland, and essentially, I think, you can probably reach two conclusions as a result. One is that we have been offered a very aggressive package by Oakland that is going to demonstrate clearly that when we are getting the land free, when the financing is at essentially Treasury rates, and when they are constructing the building at cost, there are a lot of economic benefits and that package will show itself to be very profitable.

At the same time, we will be able to demonstrate that we are still leasing space in San Francisco, and when you evaluate the cost of owning a building versus leasing; that that leased space would continue to be required in San Francisco; then when you evaluate that versus owning a building in San Francisco, it will also demonstrate that there is an economic benefit to owning space in San Francisco as opposed to leasing it.

Senator DECONCINI. Will that study include the possible purchase of an existing building in San Francisco?

Mr. GOLDEN. It evaluates the purchasing versus the leasing versus the acquisition of a building in Oakland.

Senator DECONCINI. Your testimony indicates you are moving away from building buildings, and yet in the Oakland area, it looks like you are leaning toward it, and that may be the best judgment; is that right?

Mr. GOLDEN. I think in general we are going to be acquiring buildings as opposed to building them ourselves, and in Oakland, basically, the city of Oakland is, in fact, going to make the arrangements to get the building built by the private sector for us.

Senator DECONCINI. Oh, I see. GSA is not going to have to build that building?

Mr. GOLDEN. We will not be involved directly in the construction of the building. The city of Oakland is going to be doing that on a site in Oakland for us.

Senator DECONCINI. But then you buy the building?

Mr. GOLDEN. We will be buying the building from Oakland and financing it over a 30-year period.

Senator DECONCINI. I see, OK. Go ahead. Thank you.

FEDERAL SUPPLY SERVICE FUNDING

Mr. GOLDEN. The other point I wanted to mention—this is my last point as it relates to industrial funding overall—is that we think that it makes good sense as far as the Federal Government is concerned to get involved in industrial funding for our Federal Supply Service.

We are saying why not mimic the private sector. When an agency is purchasing from us, be it paper, typewriters, or an instrument for an experiment, why should they not bear the full cost of our acquiring that item just as in the private sector? In other words, the sales price would include the purchase price that we pay the private sector plus our overhead and operating costs involved in delivering the goods and services.

It represents about an 8-percent increase over the cost of goods being purchased, but I think it really effectively allocates the cost where people can make informed decisions. If we are not competitive on a full-cost basis with the private sector, then I do not think we should be in business. It is our sense that it is prudent to go forward with industrial funding, and that is a request that we have before you today.

The final point that I would like to make is that we have a major effort underway to modernize our ADP systems within GSA and this budget includes reasonable amounts in our major departments to get us moving and getting us more efficient as an agency, and I think that is a step forward. If we are going to be the productive agency we need to be in the 1990's, that is certainly something that we need to focus on.

I would be happy to answer any questions you might have, Mr. Chairman.

INDUSTRIAL FUNDING LEGISLATION

Senator DECONCINI. Thank you. You just finished with industrial funding. Let me review a question with you here.

Your overall budget request for direct appropriation is $266,268,000. That is a cut of $129.5 million below enacted 1987 levels. Virtually all of the proposed reduction is based on the assumption that you will benefit from the passage of so-called industrial funding legislation by Congress. This legislation would require agencies to budget for the full cost of their operation, supplies, and the like, with GSA serving only as a backup if proven to be cost effective.

If this legislation passes, you will realize savings of about $169 million. You have apparently built these savings into your budget and I assume that there is a lot of praying going on at GSA that Congress is going to act. I would not hold my breath, but I do not want to indicate any opposition to it.

What will be the effect on your Federal Supply Service function if the industrial funding legislation is not enacted and no supplemental funding is forthcoming?

Mr. GOLDEN. We would have to have an adjustment in our budget. The costs are real, they are legitimate, they are easy to see. If the legislation is not enacted, then we need to have the funds. But I might point out at the same time related to industrial funding, when you look at our telecommunications programs and our other revolving funds, we do, in fact, pass back our overhead when people pay their telephone bills. So there are plenty of examples where this is being done, and I think it really makes sense overall.

We ought to be competitive with the private sector, and in my estimation the best way to determine that is to let an agency find out how much it can pay for something through GSA and see how much it will have to pay in the private sector directly and if we are competitive, they will continue to move forward with GSA.

Senator DECONCINI. I think it makes sense, too. It is just second guessing as to what we might do up here and I would think, a little bit risky. Although I think it does make sense. I hope you have a contingency plan. But in any event, in my judgment, it is time to do it.

Mr. GOLDEN. Well, I can assure you that the Federal Supply Service has a contingency program in place, but we think it does make sense.

FUNDING INCREASES FOR COURTS SPACE

Senator DECONCINI. Let me ask you a couple of questions on your supplemental. As you know, there is currently pending an $18 million direct appropriation supplemental to pay for new office space to accommodate the 52 new bankruptcy judgeships created by the new bankruptcy law in 1986. Apparently a direct appropriation was requested by the Administrative Office of the U.S. Courts to do this work rather than go through the GSA Federal buildings fund.

As I understand, there simply is not enough money available in the Federal buildings fund to accommodate these new court facilities. Senator Moynihan and Senator Stafford, of the Public Works Committee, have written me and essentially said that GSA should absorb the cost of these projects rather than have Congress appropriate new money for the projects. In fact, they imply that you should absorb the costs out of your direct appropriation, if not the Federal buildings fund.

What is your response to that, Mr. Golden?

Mr. GOLDEN. I think we really have a fundamental problem with our buildings fund. Everybody would like to have a piece of the rock, and yet there is not enough there to get the job done. I think somehow working with the Congress and this administration, we have got to get something resolved.

The fact of the matter is that there is no money in our budget for new construction, period. If you look at just the fundamental costs of modernizing these buildings, dealing with just the fire and safety issues—asbestos, PCB transformers—and then dealing with vacant space in our buildings, we have very little money left to do anything.

And the burden that we have, as it relates to the courts, is that we have legislation creating new judgeships for bankruptcy, and for Federal district courts. And yet, when the new judges are approved there are no corresponding adjustments made or facts taken into consideration for providing them with court space.

It puts a burden on us that we are having a difficult time dealing with. If we have to absorb it then we will have to re-focus on what we do, but essentially, it is giving us a very difficult choice. The issue is do we not do the asbestos work and do the courts as the alternative? Those are the kinds of tradeoffs they face, because there are no frills in our budget currently.

SPACE UTILIZATION IN THE COURTS

Senator DECONCINI. Regarding the courts, it appears to me that one of the worst violators of space utilization initiatives to reduce the average office space rate to 135 square feet are the courts. As of June 30, 1986, the utilization rate for the courts was 418 square feet per person. What specific steps are you taking to reduce the amount of space our courts' employees are using, and why are we having such a rough time in getting the courts to comply?

Mr. GOLDEN. Well, I think——

Senator DECONCINI. Their independence, perhaps? [Laughter.]

I would say that to an extreme.

Senator DECONCINI. They hold the power of contempt?

Mr. GOLDEN. We are working with the courts and endeavoring to reduce their square foot utilization, although I might add——

Senator DECONCINI. Excuse me, Mr. Golden. What is their attitude? When you say you are working with the courts, are they receptive?

Mr. GOLDEN. Well, I think it is a very difficult issue to deal with. They have their own perception of their own needs. There is a difficulty in the sense that you are not dealing with one organization. It is more on the order of dealing with 600 or 700 different independent fiefdoms, because there is not a central person that you can deal with effectively to establish standards or the like and effectively promulgate the standards through all of the courts.

So it is a real challenge that we face overall in meeting their needs and getting the space utilized in an effective way, although I would have to say at the same time, I recognize that the courts really do have some legitimate needs. We have good examples—in New York, as an example—where we have Federal judges that have tremendous dockets facing them with drugs and other activities and we do not have sufficient court space available for them.

We have a terrible situation in Miami very similar to that in New York that this Congress took care of last fiscal year, and we are now in the process of meeting that need. But we have some legitimate court needs that are not being met.

Senator DECONCINI. Yes; I know of some of those and indeed they are very critical of GSA—that you do not respond, and one thing or

another. But there is not much hope of getting them to cut down existing space, is that correct?

Mr. GOLDEN. I do not think so, no.

Senator DECONCINI. What we have to do is look to the future as we build new facilities for them.

Mr. GOLDEN. As we build these facilities, the layouts have got to be efficient and we have got to work with the courts on a building-by-building basis to minimize that space. And I think there are good examples where in the designs we are developing today of some very efficient utilizations of space that are reasonable. That is where we have some control. But to assume that we are going to significantly reduce space within the courts on existing buildings is probably unreasonable.

Senator DECONCINI. What is your general perception of the future? Are you able to work with courts on new facilities or modernization of anything?

Mr. GOLDEN. We are making good progress. It gets down to dealing with individual circuit courts and individual judges. It is very difficult to make——

Senator DECONCINI. Do you get involved with those negotiations?

Mr. GOLDEN. Only when they break down.

Senator DECONCINI. Which is probably pretty often?

Mr. GOLDEN. That is frequent. I seem to spend half my time in California worrying about the needs of the judges there.

REAL PROPERTY DISPOSAL

Senator DECONCINI. You state in your printed statement that the administration is projecting receipts of $400 million from the disposal of real property in fiscal year 1988, which is an increase of 300 percent over the existing level. I do not doubt that there are some properties held by the U.S. Government around the country that could be sold, but the fact of the matter is that your track record in selling such surplus properties has not been that outstanding. Part of the blame lies with Congress, but part of it also with agencies unwilling to give up their properties and their turf.

What leads you to believe that you will be able to dispose of anything close to $400 million worth of property next fiscal year? Where is the optimism?

Mr. GOLDEN. I think that what we really need is a lot of cooperation and support across the board. We have had difficulty particularly with the Department of Defense in that particular area. I might add that we have also had some major problems with Congress on some key properties.

It is very hard to dispose of property. Probably one of the biggest battles that we had last year was on Fort DeRussey in Hawaii. There we were not talking about selling the entire fort but rather the back 45 acres that are currently used for a vehicle maintenance area and for a Reserve unit training area.

That property alone is worth approximately $200 million—one piece of property that is being used for a maintenance center and for a Reserve unit's training area. We were not able to get that through Congress. There was specific language enacted prohibiting us from selling the property. So if we are going to be successful, this is one area where we need a tremendous amount of cooperation, both from within the administration and the Department of Defense in particular, and from Congress.

REAL PROPERTY OPERATIONS INCREASE

Senator DECONCINI. You are requesting $845.4 million for real property operations in fiscal year 1988, an increase of $92.2 million, or about 12 percent. This activity provides the operation of all Government-owned facilities under GSA and building services in GSA leased space under certain conditions.

Why is there a big jump in real property operations for this year?

Mr. GOLDEN. In addition to normal inflationary increases of $25 million, our request includes funding for new workload entering the GSA inventory; functional transfers from other budget activities which do not increase the total budget; program enhancements for security systems, contract administration and health and safety; and increased moving costs related to utilization rate improvements and telecommunications and ADP equipment. In addition, there are two items which are currently reflected elsewhere in the Federal budget which come under the GSA budget in fiscal year 1988. They are payments to the D.C. government for water and sewer services and operation of two pilot building delegations which are included in the Departments of Labor and Transportation budgets.

FLEET MANAGEMENT STUDY

Senator DECONCINI. Mr. Golden, my source within the private sector tells me that there has been very little, if any, interaction between the GSA and the private fleet management industry in developing a fleet management study analysis mandated by the Reconciliation Act of 1985. The whole purpose of the fleet management study was to assess the current way the Federal Government handles its fleet management business, including GSA's role in that, and compare it to the private sector alternatives. If GSA shuts out the private sector from the study, the results will, of course, be skewed in favor of GSA.

What specific steps have you taken to make sure that the private sector fleet management industry has been involved in the mandated fleet management services?

Mr. GOLDEN. We have been endeavoring to work on the study and to find information and actually have some competitive bids in that area, but that is an issue that I would be happy to take up today and work with your staff over the next 90 days to make sure that we get that——

Senator DECONCINI. Would you make sure that you provide us, for the record, your analysis of the specific private sector fleet management

alternatives that you either have or do not have, or that you intend to address.

Mr. GOLDEN. I would be happy to do that. I think it is also important to note that all of our maintenance is actually being done in the private sector today. Basically, what we do is we have people contracting with service stations and maintenance areas privately owned around the country to do that work. So we are basically talking about the individuals who do the day-to-day management. But the substantial bulk of the dollars are being done in the private sector.

Senator DECONCINI. Of course, I am talking about far greater than that. And I think the mandate in the Reconciliation Act, the analysis, goes far more than just the maintenance; do you agree?

Mr. GOLDEN. Yes, and we would be happy to respond.

Senator DECONCINI. It goes with the purchase; it goes with the operations——

Mr. GOLDEN. Correct.

Senator DECONCINI [continuing]. And the management of it, and I hope that you will do that, because I feel very strongly that somebody needs to look at this from the private sector. You come from the private sector, which has greatly impressed and enhanced me. I think GSA should examine private sector alternatives and I hope that you can report back to us some success in that area.

Mr. GOLDEN. That is a very legitimate issue and I will be happy to get back with you on that.

[The information follows:]

GSA has taken action to ensure implementation with all areas of Public Law 99–272. GSA has initially focused on developing and refining the cost elements to be used in the management information systems to be established by all agencies, preparing temporary regulation G–48 to implement the provisions of the act, reviewing the agency study plans and providing recommendations to ensure that they meet congressional intent, and coordinating among the agencies, GAO, and OMB on the cost accounting standards and annual reporting requirements of Public Law 99–272.

With the concurrence of Mr. Robert Mills, staff assistant to Senator DeConcini, GSA will also assume an active role in the interfacing between the private sector and agencies mandated to perform commercial cost comparisons under Public Law 99–272. On March 16, 1987, Mr. Mills agreed with the Deputy Commissioner for Federal Supply that GSA should take the lead in this area to facilitate more progress. GSA has developed the following action plan to be completed within the next 90 days:

1. GSA will meet with private sector fleet management firms and fleet information systems firms, in both one-on-one and group forums. GSA will seek private sector participation on the cost element definitions to be employed in the management information systems, and the development of standardized statement of work which will ensure competition for use in cost comparison studies. Since some agencies have already begun performing commercial cost comparisons to comply with Public Law 99–272, the standardized statement of work would be an option open to agencies.

GSA plans to hire a consulting firm to finalize the comprehensive statement of work and to directly coordinate with the agencies on adapting it to their unique operations. With regard to the management information systems requirements, GSA will first bring in a private sector consultant to provide technical accounting definitions of the cost elements. The requirements for fleet accounting systems, based upon these data elements, will be incorporated into the standardized statement of work. The statement of work would be tailored to accommodate the private sector and meet the agencies' needs for vehicle acquisition and management, maintenance, and information systems.

GSA will host a meeting of the Federal agencies to outline our proposed plan of action and solicit their concurrence and commitment to cooperatively moving forward on cost comparison opportunities. Once the standardized statement of work is developed, agencies will work directly with the consulting firm responsible for developing it to incorporate their unique requirements. Likewise for the management information systems requirements. It will be the agencies' responsibility to use these tools to perform the cost comparisons required by Public Law 99–272. GSA will do nothing to give any appearance of influence on actual agency implementation.

2. By May 1, 1987, GSA plans to revise temporary regulation G–48 to indicate that the cost comparison requirements apply to vehicles consolidated into the GSA Interagency Fleet Management System [IFMS]. The regulation currently exempts consolidated vehicles from comparison with the commercial sector. The revised regulation will require agencies that consolidated with the IFMS under section 15306 to compare full IFMS support to commercial sector prices, using the statement of work process described above. Within the GSA IFMS, we have contracted out maintenance, repair, warranty work, fueling, dispatching and systems design to the private sector. In terms of dollars, 90 percent of the IFMS annual cost of operations is spent in the commercial marketplace.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Overall, Mr. Golden, I want to say that I think you are an outstanding Administrator at GSA and have brought some very good practices to a hodge-podge of problems. I hope you continue and this committee wants to work with you.

We appreciate your staff and the attitude that you have expressed in tackling some of these nitty-gritty problems.

We have some questions for the record if you do not mind.

[The following questions were not asked at the hearing but were submitted to the agency for response subsequent to the hearing:]

Additional Committee Questions

MR. DECONCINI: You are requesting authority to spend $141,700,000 for the completion of a Federal building in Oakland, California. As I understand it, the City of Oakland is donating a tract of land to GSA for the building; you will piggyback on their attractive financing instruments; and enter into a lease/purchase arrangement on this building. There is some healthy competition going on between Oakland and the City of San Francisco over this project -- San Francisco claiming that it can meet GSA's Bay Area space needs for much less money and less disruption to City employees. Their contracted study of the San Francisco alternative claims savings of as much as $85 million over the life of the project. GSA apparently disputes these savings estimates. I have asked GAO to help me evaluate all of the proposals. Can you shed some light on the cost savings claims of San Francisco and tell us why Oakland is such a good deal for GSA and the Government?

MR. GOLDEN: The results of GSA's analysis differ from those of the analysis provided by the City of San Francisco in several fundamental ways. First, GSA has identified a significant difference in occupiable square feet between the proposed Oakland facility and the building at Rincon Square. Specifically, the size of the proposed Oakland facility exceeds the occupiable square feet of office space in Rincon Square by 162,500 square feet, or 28 percent. Our economic analysis takes account of this difference.

Second, GSA has conducted an in-depth review of the Rincon facility, and finds that the quality and flexibility of the proposed Oakland project are significantly superior to Rincon Square. We have assigned an economic cost to Rincon Square to account for these differences.

Third, GSA's analysis recognizes that there would be interim housing costs under both the proposed Oakland facility alternative and any building purchase alternative. GSA's analysis is based upon a review of the cost of existing leases for the potential tenants for those facilities.

In brief, GSA's analysis concludes that proceeding with the Oakland project is in the best interest of the Federal government and the taxpayer because: 1) it has a cost advantage of $51.3 million (present value over 30 years) when compared to the San Francisco purchase alternative; 2) the Oakland facility will have considerable quality advantages over the Rincon Square complex in San Francisco including greater convenience to mass transportation, greater design flexibility to meet tenants' requirements, and optimal layout efficiency; and, 3) since the Oakland facility is larger, it will provide greater opportunity to consolidate agencies and achieve related management improvements and efficiencies.

MR. DECONCINI: What about the argument that building the building in Oakland would cause wholesale, inconvenient moves of San Francisco employees out of that City and into Oakland. What do your demographic data show regarding Bay Area employees having to move in droves to the Oakland site?

MR. GOLDEN: The contention that building the building in Oakland would cause wholesale, inconvenient moves of employees from San Francisco into Oakland is overstated. There are two aspects to the question. The first aspect is the impact on the employment base of the City of San Francisco. Based on the current staffing of those agencies tentatively identified as potential tenants, we estimate that between 2,700 and 3,100 jobs will be relocated from

San Francisco. GSA currently houses 13,670 Federal employees in San Francisco in six Government-owned and 24 leased buildings.

The second aspect is the impact on the employees themselves. We have conducted a study to determine the commuting patterns of the present employees of those agencies tentatively identified as potential tenants of the Oakland building. Of all potential tenants, 46.7 percent already reside in the East Bay, whereas 32.5 percent now live in San Francisco. The remainder of the employees live in San Mateo, Marin, Sonoma, Napa, and Santa Clara counties. The commuting pattern will be improved for the greater number of employees involved.

Considering only those employees currently working in San Francisco, 42.1 percent of those employees also reside in San Francisco. Due to the proximity of Oakland to San Francisco and the distribution of employees' residences, and the excellent access to public transportation, we do not anticipate a substantial impact on commuting patterns. The site donated by the City of Oakland contains two bus stops and is one block from the nearest Bay Area Rapid Transit station.

MR. DECONCINI: The Continuing Resolution of last year directs you to study the need and availability of existing buildings in San Francisco and to report with recommendations prior to today's hearing on the fiscal 1988 budget of GSA. You issued that report on February 20th. However, the study seems to be focusing on a San Francisco option of substantially smaller scale than the proposed Oakland Federal Building (400,000 square feet v.s. Oakland's 800,000 square feet of occupiable space.) The study also is based on the assumption that any space option in San Francisco would be IN ADDITION TO, rather, than INSTEAD OF the Oakland option. Have you done any analysis of San Francisco v.s. Oakland, comparing apples to apples, i.e., the Oakland package to a similar package in San Francisco -- and if so, what have been the results?

MR. GOLDEN: At the request of Mayor Feinstein of San Francisco, GSA has completed a comparison of the proposed Oakland Federal Building and the Marathon Development Corporation's building which is under construction at Rincon Square. The resulting analysis shows a cost advantage of $51.3 million (present value over 30 years) in favor of the Oakland project. The analysis was adjusted for differences in size, configuration, and building systems.

We have not prepared an analysis of the municipal leaseback of a building to be constructed in Oakland versus the municipal leaseback of an identical building to be constructed in San Francisco. Such a comparison would favor Oakland. Although construction, services, and financial costs would be similar, site and design costs would be lower in Oakland due to Oakland's provision of a site and to the predesign work that has already been accomplished.

MR. DECONCINI: You are requesting $150 million for the purchase of commercial buildings in major cities where owning is economically preferable to leasing. Has GSA identified specific locations where these funds would provide the greatest benefit to the Federal Government and if so, could you tell us where you are most likely to spend this money?

MR. GOLDEN: GSA, in conjunction with the Office of Management and Budget (OMB) has developed an analytical model designed to identify specific cities in the United States where additional Federal ownership of space is cost effective. The top ten cities identified for additional investment by this model are:

Washington, D.C., New York, San Francisco, Chicago, Atlanta, Seattle, Philadelphia, Miami, Houston, and Dallas.

MR. DECONCINI: Can you tell us what savings you have been able to realize from this "opportunity buy" program, including the number of leases that have been terminated or not renewed as a result of these purchases?

MR. GOLDEN: The "opportunity buy" program has generated significant savings. GSA has purchased approximately 1.7 million square feet of occupiable space at an average cost of $85 per square foot; considerably less than the cost of land acquisition and construction if GSA were to construct a similar amount of space. The main determination of cost effectiveness is provided by use of the OMB Circular A-104 cost comparison procedure which GSA is required to perform for all building purchases. The A-104 analysis uses standard methodology to indicate the total costs of occupying a building for a 30-year period. Purchases are evaluated against leasing equivalent space and estimates are made of both the expected inflation and discount rates. The results of the analysis indicate the relative cost advantage of ownership over leasing in both total dollar savings and annualized dollar savings.

The annual net savings from the seven buildings purchased to date is in excess of $7 million. The following chart details the results of the A-104 analysis for the buildings that have been purchased.

BUILDING	CITY	SAVINGS OVER LEASING
GRIFFIN SQUARE	DALLAS, TX	$ 800,000/YEAR
JUDICIARY SQUARE	WASHINGTON, DC	$1,100,000/YEAR
IRS/VA CENTER	AUSTIN, TX	$1,600,000/YEAR
BRICKELL PLAZA	MIAMI, FL	$ 472,000/YEAR
WHITE FLINT	ROCKVILLE, MD	$1,146,000/YEAR
IRS CENTER	CHAMBLEE, GA	$ 650,000/YEAR
METRO CENTER	SILVER SPRING, MD	$1,268,000/YEAR
TOTAL ALL BUILDINGS		$7,036,000/YEAR

As a result of the above purchases 31 leases will be cancelled.

MR. DECONCINI: Tell us for the record about the buildings you have purchased and give us GSA's detailed criteria for evaluating potential purchase candidates.

MR. GOLDEN: GSA has spent $144 million for the purchase of seven buildings with a total of 1.7 million occupiable square feet, at an average cost of $85 per square foot. Five of the buildings are general purpose office buildings. Two of the buildings, Chamblee, GA and Austin, TX, were entirely leased to GSA prior to their purchase and had been built and altered to meet the specific requirements of the tenant agencies. In general, GSA seeks to purchase first-class office space which is convenient to public transportation, to the tenant agency(s) and the public they serve.

BUILDINGS PURCHASED TO DATE

BUILDING	OCCUPIABLE SQUARE FEET	PURCHASE PRICE ($ MILLIONS)	PRICE/SQ. FT.
Griffin Square	160,000	7.2	$ 45.00
Judiciary Square	85,000	13.4	$158.00
Austin IRS/VA Ctr.	610,000	27.2	$ 45.00
Brickell Plaza	137,000	13.9	$101.00
White Flint	277,000	47.5	$171.00
Chamblee IRS Ctr.	320,000	13.2	$ 41.00
Metro Center	113,000	21.9	$194.00
Total all Bldgs.	1,693,000	144.3	$ 85.00

GSA uses a number of criteria to determine whether or not to purchase a building. Preference for ownership, of course, is in cities where a need for additional Federally-owned space has been identified. These cities are determined by use of the GSA/OMB building purchase model. This model evaluates such factors as the current ratio of government-owned to leased space, the size of the leased inventory and anticipated lease costs over the next ten years. This model does not evaluate specific buildings. It merely determines those geographic areas where efforts for increased ownership should be concentrated.

Once specific candidates are identified, detailed building evaluation and analysis begins. GSA's in-house appraisers, real estate specialists, architects and engineers review the potential candidates and make a preliminary determination as to which building or buildings should be further pursued. Where preliminary evaluations are positive, notification is given to the offerors and a more detailed study ensues. From an economic point of view, standard OMB A-104 analysis is conducted, comparing purchasing with the life cycle costs of leasing. The economic analysis is supported by rental information on specific properties based on a determination of which agency or agencies would be moved to the new building after purchase. Every effort is made to cancel existing leased space and to achieve space utilization improvements.

The building is evaluated according to GSA building criteria and any deficiencies or necessary modifications required for Federal occupancy are noted along with the estimated repair costs. A negotiating strategy is developed which is backed by a detailed firesafety report, engineering evaluation of building systems, and a contract appraisal indicating current fair market value. Formal negotiating sessions are held with the building owners, and an agreement to purchase is signed. Before the transfer of funds and title occurs, the contract clearance process is accomplished which provides for a legal review of the entire purchase process and ensures conformity with applicable laws and regulations. The closing date is set and the property is formally transferred to the Federal Government at the closing.

MR. DECONCINI: You are asking for $61.9 million for additional rental of space requirements in fiscal 1987. Can you tell us why this supplemental is needed and what happens if we are unable or unwilling to provide it?

MR. GOLDEN: This additional new obligational authority will be used for the acquisition of new leased space to meet the expansion needs of our tenant agencies. The major agencies involved are the Department of Defense, the Department of Treasury (Customs Service and Internal Revenue Service),the Department of Justice (Drug Enforcement Agency and Immigration and Naturalization Service), the Judiciary and the Department of Interior. All of the agencies involved have certified to GSA that the funds to reimburse GSA for the space are currently available in their FY 1987 budget. GSA's rental expenditures will be financed from the additional income received from the tenant agencies and no direct appropriations to GSA are required.

If this additional authority is not made available to GSA, we will have to indefinitely postpone acquiring the additional space requested by our tenant agencies. Many of these requests are the direct result of recently enacted legislation which expanded existing programs or created new program requirements. GSA's fiscal inability to satisfy these space requirements could adversely impact the above agencies' ability to execute the new and expanded programs authorized by the Congress.

MR. DECONCINI: You are asking for $1.2 billion for rental of

space next year -- an increase of about $147 million over last year. You say in your justifications that unless significant reductions are made to the leased space inventory, the rental of space budget will reach $2 billion by the mid-to-late 1990s. One of your objectives to reduce the amount of space used by the Federal government has been to cut the average office space utilization rate to 135 square feet or less per employee. What is the status of that effort and other efforts to reduce the amount of space used by the Federal government?

MR. GOLDEN: A Federal Property Management Regulation (FPMR), Temporary Regulation D-73, Quality Workplace Environment Program, was published in February 1987. The regulation establishes a program through which the quality of Federal office space is improved and productivity is enhanced, while the total amount of space is reduced. The ultimate goal of the program is to accomplish cost-effective space reductions which will result in long-term monetary savings to the Federal government. The regulation prescribes limits which govern new space assignments made by GSA for GSA-controlled space.

An average of 135 square feet per workstation including supplemental space is a maximum not to be exceeded for new space assignments. Further, agencies are required to submit an annual workspace management plan to establish square footage targets at the bureau level, to report progress and plans for achieving the government's workspace management goals, and to support the agency's budget justification. GSA shall review the agencies' plans for accuracy and to ensure the projected end-of-year square footages comply with the provisions of FPMR Temporary Regulation D-73.

The impact of this new policy is illustrated by the first quarter FY 1987 utilization rate for new assignments which was 138 square feet per workstation. This improves by 7 square feet the utilization rate for new assignments in FY 1986.

MR. DECONCINI: GSA initiated a program in 1983 that would delegate to certain agencies the authority to operate and maintain their own buildings, rather than go through GSA. Your fiscal 1988 budget request for delegated buildings increases by $10 million over last year's level (from $39.8 million in 1987 to $49.9 million next year). This represents a 25% increase in real property operations for delegated buildings next year. Why are the real property operations costs increasing so substantially for delegated buildings next year? I thought the delegation program was going to result in savings to the Government.

MR. GOLDEN: In conjunction with the President's real property management initiative, the pilot building delegation program, implemented by GSA in fiscal year 1983, provided for open-ended negotiations with agencies that were interested in receiving delegated authority to operate and maintain their own buildings in Washington, DC. Some pilot delegations called for the tenant agencies to budget for the associated costs and these costs were deleted from GSA's budget. In April 1985, OMB guidance on budgetary treatment of delegated buildings directed GSA to continue to budget for the full cost of operations of delegated buildings and to transfer the funding to each delegatee on an annual basis. As the pilot delegations expire, each delegation will be renegotiated and treated in accordance with the OMB guidance. Two such renegotiations become effective in fiscal year 1988. Accordingly, the $10.1 million increase in fiscal year 1988 includes $5.7 million for the Department of Labor pilot delegation and $2.9 million for the Department of Transportation (Nassif) pilot delegation. The remaining $1.5 million is for inflationary and utility rate increases.

MR. DECONCINI: Back in September of 1985, I wrote you and expressed my concern over the ability of the Federal government to adequately protect Federal employees and visitors to Federal facilities. An incident at the State Department in the summer of 1985 triggered my concern and your plans to rely more heavily on contract guards for protection of certain Federal buildings increased my concern. Since that time I understand that GSA has done a fairly detailed analysis of security needs at Federal buildings, including a reassessment of the role of the Federal Protective Service. I hope that your plan of attack will allay some of my earlier concerns. Can you tell us briefly how you intend to improve security at Federal buildings; what the role of the Federal Protective Service will be in that plan; and when it will be in place?

MR. GOLDEN: GSA plans to improve its Protection Program by placing its security resources in locations where risks are the greatest. This will involve concentrating Federal Protective Officers (FPO's) in major metropolitan statistical areas (MSA). These areas are New York, Boston, Philadelphia, Washington, D.C., Atlanta, Miami, Chicago, Kansas City, Fort Worth/Dallas, Denver, San Francisco, Los Angeles, Seattle and Puerto Rico. Three options (attrition, opportunity for other GSA positions, or transfer to the nearest MSA) will be used to reduce FPO presence by September 1990. No FPO will be placed in jeopardy of losing a job. Other efforts are underway to improve security through: 1) improving the contract guard program; 2) getting greater tenant participation in the security program; 3) closer monitoring and coordination with agencies over security issues in delegated buildings; 4) legislation to effect retrocession; and, 5) closer coordination within PBS to assure that security considerations are integrated into future development and acquisition plans.

The Federal Protective Service's role will not be changed, but will be streamlined to accomplish the goals we have established. FPO's will continue to provide law enforcement service in the core cities, and Physical Security Specialists will conduct physical security surveys, crime prevention programs, liaison and contract guard administrative tasks, etc. Security systems installations and maintenance requirements will continue to be determined by FPS personnel.

All these initiatives have been started and have various completion dates. We plan to have all improvements completed by September 30, 1990.

MR. DECONCINI: Some agencies will be delegated their own responsibility for securing their buildings, I am informed. What specific safeguards has the Administration built into its new Security Plan to guarantee that a high level of security is maintained by all delegated agencies?

MR. GOLDEN: Once we have delegated a building to another agency, we retain responsibility to ensure that security levels are maintained. This requires that we continue to have close liaison with the agency on all security issues. We have recently reviewed all delegations to ascertain whether they address security issues and provide an avenue for review to see that GSA standards for security are being met. Each Regional Administrator is charged with the responsibility to ensure that communication lines are not only maintained after delegation, but that they are strengthened. We will continue to provide physical security surveys, crime prevention programs and standards for testing, qualifying, administering and monitoring contract guards.

MR. DECONCINI: Mr. Golden, I am going to ask you a rather difficult question. The Federal Buildings Fund was initiated

some time ago to provide funding for new construction, major repairs, and other operations. It was to be sustained by the payment of standard level user charges (SLUC) by user agencies, and in return they expected certain services to be provided. Commercial equivalent rates have been charged to the agencies in an attempt to put them all on a private sector/market structure. The idea was that any excess "profit" would accumulate in the Fund to pay for large capital improvements and the like. Frankly, it doesn't seem to have worked. There is currently $2 billion backlog of repair and alteration projects; the Courts are now going straight to Congress for direct spending authority to pay for new facilities; GSA is delegating authority to certain agencies to handle their own operation and maintenance outside of GSA; and there is little sign of ever catching up unless there is a massive infusion of new money. Why not scrap the Federal Buildings Fund; put the agencies on a private sector basis for handling their own expenditures; and if new construction or major repairs are needed, pay for them through direct appropriations?

MR. GOLDEN: When operating as the original legislation intended, the Federal Buildings Fund (FBF) has been an effective real property management tool. The "profit" that you address is part of a commercial rental rate. Although the intent of the FBF is to charge commercial equivalency, this has not always occurred in practice. From fiscal year 1975 through 1987, caps and freezes on rental rates imposed by OMB and the Congress have prohibited GSA from collecting $2.3 billion in rental income. This income could have financed the repairs and alterations work needed to maintain the government-owned inventory and the acquisition of new government-owned space. These actions, in turn, could have reduced our dependence on costly leased space.

In the fiscal year 1988 budget we are requesting a return to full commercially equivalency for the RENT rates. We estimate that this will result in FBF receipts of $2.9 billion in fiscal year 1988. This income level will support a Repairs and Alterations (R&A) program of $444 million. This program level will result in substantial progress towards reducing the backlog of R&A work. This level will need to be sustained for several years in order to modernize the aging government-owned inventory. The Building Purchase program of $150 million along with alternatively financed projects such as, Chicago and Miami in 1987 and Oakland in 1988, will result in significant reductions in costly leased space. With full commercial equivalency and select alternatively financed acquisitions, the FBF can meet the financial objectives of the agency.

MR. DECONCINI: Would you be willing to do a top-to-bottom review of the need for the Federal Buildings Fund and compare its continuation with a system that more closely approximates how the private sector operates, including letting each agency handle its own facilities and budget for them through the regular budget process?

MR. GOLDEN: Under the Federal Buildings Fund (FBF) system the relationship between GSA and the tenant agencies is very much akin to a private sector landlord-tenant relationship. Various alternatives to this system have been suggested over the years. We would be happy to examine alternatives to the FBF, as well as, the effectiveness of the Fund itself, and provide any detailed, in-depth study that the Committee requests.

MR. DECONCINI: The FY 88 budget request includes about $242 million for the purchase of utilities and related fuels. The request amount also includes about $13 million for direct payment to D.C. for water and sewage services. In prior years, GSA did not pay D.C. for these services directly because they were included in the single Federal payment to the D.C. Government.

We realize that controlling the consumption of utility services is extremely difficult for GSA. However, recent newspaper articles have indicated that private commercial firms have found that utility companies do not always use the proper rate schedule when billing for services provided. What kind of a program does GSA have in place to ensure that it is being charged under the most economical rate schedule available to the government at the location where utilities are delivered?

MR. GOLDEN: In accordance with FAR regulations (subpart 8.3) and the Federal Property Act (40 U.S.C. 481), GSA public utility contracts require the lowest applicable rate for all Government accounts. This requirement is contained in 68 all agency master utility procurement contracts with major utilities nationwide.

At GSA, public utility procurements and rate cases are handled by the Office of Procurement located in the Public Buildings Service at Central Office headquarters. This Office engages in utilities acquisition and has certain broad authorities for intervening in rate hearings to achieve savings for the Government as a consumer.

The scope of work for the acquisition of utilities is prepared by the PBS regional Office of Real Property Management and Safety at the location where utilities are to be delivered . Contract development is coordinated between the regional Office of Real Property Management and Safety and the Office of Procurement.

MR. DECONCINI: How does GSA manage the procurement of utility services? Are detailed annual rate reviews made on each account? Are these reviews documented? If so, are the results summarized in some fashion? Have these reviewed resulted in savings? Are takes included on utility bills reviewed to ensure that the government is required to pay them?

MR. GOLDEN: GSA manages public utility procurements through contract and rate case participation. Overall, for utility services under existing delivery contracts, we rely on a variety of in-place methods of reviewing usages and costs for adequate determination of delivery and cost. These methods include: regional management surveys performed by Central Office; field office review and certification of actua. bills; monthly tracking (graphs and plots) of utilities; Inspector General reviews; OMB Circular A-123 Management Control Evaluations; and the Energy Usage Analysis System which automates energy usage and cost for approximately 500 GSA-owned and operated buildings.

GSA handbook, PBS P 5800.35, "Energy and Water Management," is a wide-ranging guide which delineates energy program requirements and procedures for 16 different program areas such as energy awareness, energy analysis, fuel sources and usage, and energy retrofit and operation. Specific consideration in our energy handbook goes to the building level review process. Originating in the regional office, assessments, plotting, and disseminations of energy information are to be made to field personnel.

For building operations the handbook requires specific review of rate structure, demand charges, and utility billing checks for electricity. Although these steps are detailed for electricity (the bulk of energy cost) corresponding reviews of all utilities/fuels is expected. The reviews include consideration of a host of billing elements including, but not limited to, the following: (1) electric rate structure elements such as rate schedules and riders, peak demands, power factors, and monthly and annual consumption; (2) reducing demand charges through load-leveling and load identification; and, (3) utility billing elements such as meter readings, unexplained variances, demand rates, fuel adjustments, and calculating applicable rates.

Detailed annual reviews are made for contract actions that include review of statutes for the applicability of taxes on Government bills. Upon completion of contracts, Federal agencies and GSA regions are directed to perform annual rate reviews that include interfacing with utilities on the matter of cheaper rate schedules. Savings and cost avoidances are achieved by both the contracting and rate functions and are documented.

MR. DECONCINI: Does GSA have an effective energy management program to monitor and control the use of utility services in Federal buildings? Is building utility consumption being tracked and fluctuating patterns investigated? If so, has this resulted in any savings? efforts?

MR. GOLDEN: GSA utilizes the nationwide automated Energy Usage and Analysis System (EUAS). The EUAS tracks approximately 500 GSA-owned and operated buildings representing the bulk of our Government-owned and operated space. Initially, in FY 1986 the EUAS tracked about 530 buildings, representing 82 percent of space. Year-to-year fluctuations occur due to building delegations, disposals, and additions. The EUAS is primarily an energy information system, rather than a budgetary information vehicle.

Utility billing usage and cost information is entered monthly in the EUAS in each regional office. This data formulates the information base upon which regional, field, and building managers track and analyze utilities trends and fluctuations for the monitored buildings. Bill certification is done by a field office review of the actual bills when received from the GSA Office of Finance. The EUAS has also been the primary vehicle by which GSA reports energy usage to the Department of Energy (DOE) on an aggregate basis, each quarter.

GSA's overall energy management program, the results of which are contained in DOE's "Ninth Annual Report to Congress on Federal Energy Conservation Programs, fiscal year 1985", dated September, 1986, achieved a reduction in total energy in buildings of 7.5 trillion British Thermal Units (BTU's) from 1975 to 1985. This was an overall percentage reduction of 17.6 percent. From 1984 to 1985 GSA's percentage reduction was 6.9 percent. On a BTU per gross square foot basis, GSA reduced 10.4 percent from 1975 to 1985 in raw source energy. When electricity was measured as site BTU's at the building boundary, GSA reduced 24.5 percent from 1975 to 1985 on a BTU per gross square foot basis. 1985 ended a 10 year period in which there was a Federal goal to reduce energy use per square foot by 20 percent in 1985 versus 1975. GSA had preceded the 1975-1985 goal period by reducing energy use per square foot from 1973 to 1975 by approximately 30 percent on a raw source basis, accelerating ahead of most Federal agencies of the day.

Although there is no current Federal percentage goal to reduce Federal agency energy use, GSA maintains a utilities usage program objective in its real property operations operating plan. For fiscal year 1987 it is to maintain the fiscal year 1986 usage level. In fiscal year 1986 our energy usage per square foot was essentially flat with fiscal year 1985, with a .6 percent increase, although we had hoped for a one percent decrease. Year-to-year fluctuations are not uncommon.

QUESTION: Like many agencies funded in the Treasury, Postal Service, and General Government Appropriation Bill, GSA does not receive any supplemental funding for either pay raises or Federal Employee Retirement (FERS). How much will you have to absorb for these two mandatory items and where will you find the money in your other activities to pay for these?

ANSWER: GSA will have to absorb $21.4 million for Pay and FERS, $11.8 million for Pay and $9.6 million for FERS. The funds will be found by reallocating the resources in each account. By having almost a whole year to adjust in planning, we will be able to make the necessary adjustments to absorb the increased costs for pay and FERS. We will provide a list for the record of those amounts by appropriation and fund.

(The information follows):

GENERAL SERVICES ADMINISTRATION
FY 1987 FERS and Pay Absorptions

	PAY	FERS
Operating Expenses, FSS	2,466,000	1,611,000
Transportation Audits	8,000	6,000
Operating Expenses, IRMS	594,000	328,000
Operating Expenses, FPRS	355,000	290,000
Salaries and Expenses, GMA	1,824,000	1,214,000
Inspector General	396,000	373,000
Former Presidents	6,000	5,000
Consumer Information Center	16,000	12,000
Total Appropriated Accounts	5,665,000	3,839,000
Federal Buildings Fund	6,143,400	5,762,000
Total	11,808,400	9,601,000

Relocation Appropriation of $47 million

I believe you are asking for the first time, for an appropriation to provide an incentive for agencies to relocate to other properties and give up underutilized property that could be sold. You are asking for $47 million in no-year money to do this and to pay for relocation costs. You say in your justifications that implementation of the relocation program will be an essential part of the overall real property disposal program.

Frankly, Mr. Golden, your struggle to get the National Science Foundation to move to brand new space in Silver Spring, Maryland should be a clue as to how successful your relocation program may be. And if your track record in surplus property

disposal is any indication, I doubt that dangling $47 million in front of agency administrators is likely to improve your chances of freeing up underutilized property.

Question: In any event, tell us why this Committee should approve this amount of new money, when the prospects for improving your real property disposal effort with this money are so tenuous?

Answer: Since 1981, the beginning of the current Presidential initiative to improve real property asset management, GSA has disposed of surplus real property valued at $700 million. The $47 million will provide for relocation costs involved in moving agencies from valuable underutilized properties to facilities determined to be more economically suited to their needs. The program will be implemented as the Administration's major new initiative to reduce obstacles and provide incentives to agencies to relocate facilities for the purpose of declaring underutilized properties as excess. Landholding agencies participating in studies to improve Federal asset management have consistently stated the need for such an incentive. Agencies have stated that if funds were available for relocation from high cost to lower cost areas, valuable property could be reported excess for disposal by GSA.

Implementation of the relocation program is considered to be an essential part of the overall real property disposal program. Receipts from sales of real property are targeted at $250 million in FY 1987 and $400 million in FY 1988. The relocation initiative should greatly assist in helping to achieve these goals by providing for the optimum utilization of Federally-owned property.

GSA: Motor Vehicle Study

The Budget Reconciliation Act of 1985 (P.L. 99-272) contained an amendment that Senator Humphrey and I offered -- an amendment that calls for substantial reductions in the cost of operating and maintaining the Federal motor vehicle fleet (Title XV, Subtitle C., Federal Motor Vehicle Expenditure

Control). GSA has a major role in coordinating the response of all Federal agencies to this statutory mandate to cut the cost of motor vehicle operations.

Q: What is the status of this effort; how much can we expect all agencies to save in fiscal year 1988; and what problems are you running into with the government-wide effort? Please provide for the record a comprehensive outline of the effort, by agency, to date.

A: Status. GSA published Temporary Regulation G-48 on August 20, 1986, implementing Title XV, Subtitle C, Federal Motor Vehicle Expenditure Control. Comments have been received from affected agencies and the General Accounting Office (GAO). GAO is responsible for cooperating in the development of the required fleet related cost accounting standards. Since receiving GAO's comments in November, 1986, GSA has been negotiating to reconcile the GAO position with that of affected agencies. GAO recommended more specificity in terms of data collection, cost accumulation, and economic assumptions to employ in the study processes. The predominant agency position is that the regulation already imposes too much specificity in the first two areas. The reconciliation process is nearly complete; GSA expects to begin clearing a supplement to the temporary regulation within 60 days.

With regard to the required studies, GSA received all agency plans and assisted several agencies in revising their plans. Copies of the agency plans were transmitted by FSS to Senator DeConcini's office on January 16, 1987. Since GAO is required to report to Congress by January 31, 1988, they are in process of meeting with individual agencies to assess the plans and overall compliance with the Act. It is GSA's understanding that agencies that have yet to start the commercial studies will begin once the cost and accounting issues have been reconciled and final guidance is incorporated in the supplement to the temporary regulation. In some instances, the comparison against GSA Interagency Fleet Management System's (IFMS) costs has already begun. Approximately 5,100 vehicles have been consolidated, with annual savings to the Government of $11.9 million. The supplement to the temporary regulation will also indicate that agencies that have consolidated must still perform commercial sector studies.

Savings. The reductions achieved under the Act are reportable to the Office of Management and Budget through the agency budget process. From GSA discussions with the agencies, it is anticipated that the full $150 million reduction will be achieved by the end of fiscal year 1988.

Principal Problems. Final reconciliation of the GAO and agency comments on the cost and accounting issues will solve the major problem GSA has experienced. From the agency standpoint, the principal problems are that they cannot reconstruct the data necessary to perform a comparison with the commercial sector. Until systems have been implemented by the agencies to capture the required cost elements, valid comparisons with the commercial sector are virtually impossible. Also, the issue of accounting for overseas and security vehicles is of agency concern. GSA has assured the agencies that reporting vehicles used for law enforcement/undercover/security purposes will not be compromising. Although agencies are to report on vehicles operated overseas, the requirement for a commercial sector cost comparison should be waived when security or socio-economic factors are prohibitive.

Comprehensive Outline by Agency. GAO is in process of reviewing each agency's actions with regard to P.L. 99-272 compliance. The result of this effort will be a comprehensive

report by agency. At this point, GSA can only offer to resubmit copies of the agency study plans.

Q. "Why will GSA need to expend nearly 65 percent more on motor vehicles since FY 1986 if legislation says you should rely more heavily on the private sector for the Government's vehicle needs?"

A. Outlays for acquisition of replacement vehicles have risen from $156 million in fiscal year 1986, to $230 million this year and $257 million in fiscal year 1988. Most of this increase is the result of the implementation of a three-year replacement cycle for passenger vehicles. This is in addition to normal increases due to such factors as annual price increases, technological improvements, and so on. It is very important to understand that the outlays shown in the budget are gross outlays. They do not reflect the significantly higher income from the sale of more and newer used vehicles under the three-year replacement cycle. Such income offsets much of the increase in gross outlays, as demonstrated by the fact the we have not raised the charges to our users since 1983: our charge for a compact sedan is still $124 per month plus 10.5¢ per mile.

Q. "Is this evidence that your studies have concluded that it is more cost-effective for GSA to handle this task than the private sector?"

A. We periodically examine various methods of vehicle acqusition. Our most recent lease-vs.-buy study was conducted at the request of the Grace Commission. Like every previous study, it confirmed the advantages of GSA ownership of vehicles over leasing. The overwhelming factor that repeatedly leads to this conclusion is the heavy discounts available to GSA because of its high-volume purchases of standardized vehicles direct from the manufacturers on a low-bid basis. As stated above, the questioned increase in outlay is due primarily to the implementation of a three-year replacement cycle for passenger vehicles. Our study and field test demonstrated significant life-cycle savings in fuel and maintenance expense from a shorter replacement standard, and showed that the higher gross outlays from more frequent replacement are compensated for by higher proceeds at resale.

GSA: Government-wide travel: Use of Frequent Flyer Benefits for Agencies

Question: Currently, as I understand it, the government spends over $11 billion on travel each year. Much of that travel is air travel by Federal employees.

Almost every airline has frequent-flyer programs that offer savings to those who travel a lot on their airline, including free tickets or other benefits. It would seem to me that the government should be in a position to take advantage of those savings and pass those savings back to the agency that paid for the official travel. I am not advocating that individual employees receive the benefit of being a frequent business flyer, since they did not pay for the trip.

Q: What, if anything, has been done by GSA to take advantage of the discounts and frequent flyer incentives offered by airlines? By insisting on Uncle Sam getting these savings, couldn't the government as a whole save a bundle of money?

Answer: The General Services Administration has an established program of competitive contracting with airlines for discount fares for official government travelers. For the current fiscal

year, GSA has contracts in effect with every major U.S. airline, as well as several regional carriers, covering 1,448 domestic and international city-pairs at average discounts of 50 percent below published coach or economy fares. Unlike discounts offered to the general public by airlines, which generally are very restricted in terms of available seats, and carry other requirements such as minimum and weekend stays, advance purchases, and often are not refundable, the GSA contract fares are available without restrictions or limitations to employees traveling on official business. In addition, many contract carriers also offer a supplemental contract fare at discounts of up to 75 percent below coach fares which is limited in terms of available seating, but carries none of the other restrictions normally associated with such deep discounts. Since its inception in 1981, this program, which is mandatory for use by all civilian and military travelers, has generated literally hundreds of millions of dollars in direct savings to the taxpayer. For fiscal year 1987 alone, it is expected to yield savings of more than $400 million on an estimated, governmentwide air transportation expenditure of $1.5 to 2.0 billion. In total, the government will spend approximately $6 billion on employee travel expenses this year rather than the $11 billion quoted above.

Frequent flyer programs were developed by airlines as a means to develop brand loyalty among individual travelers. Consequently, most airlines limit the use of any free tickets which may be earned through participation in such programs either to the frequent flyer or a member of his or her immediate family. In some cases, the immediate family member also must share the same surname as the program participant. Moreover, increasing numbers of airlines now require that any free tickets earned be purchased directly from the airline, and may even require photo identification at the time of purchase tc ensure that the person purchasing the tickets is the person who earned them. Were the airlines to allow frequent flyer mileage accumulated by individual travelers to be credited to the account of a government agency, they would be required to issue substantially greater numbers of free tickets than currently are issued to individual program participants. How many is anybody's guess, but a conservative view is that the number could increase by a factor of at least 25. This would significantly increase the airlines' costs of doing business with the government, particularly in light of the substantial discounts offered to government travelers that generally are not available to employees of private corporations, and would in turn lead to lesser discounts to the government in order to offset those additional costs. The government is more likely to benefit in real dollars by encouraging its employees who are frequent travelers to voluntarily join such programs with the clear understanding that they must use any resulting benefits for official rather than personal travel, but that in so doing, they can help to further control and reduce agency travel costs. Such an approach would depend largely on an honor system, but if promoted in a positive way, could potentially lead to significant savings over and above the benefits of the GSA contract program without aappreciably to airline costs. It also is important to note that the average number of miles required to earn a free, roundtrip coach ticket on most airlines is 40-45,000. Under a mandatory contract program, the ability of any employee to direct his or her travel to a single carrier is virtually removed. Consequently, even the most frequent travelers would not likely earn more than one free ticket per year unless they travel extensively on an international basis, in which case it may make sense for their agencies to more closely track frequent flyer memberships and earnings. As a general rule, however, we believe that the costs to either seek to incorporate frequent flyer benefits into our airline costracts, or to set up administrative

mechanisms to track individual memberships and earnings would far outweigh the potential savings, as well as jeopardize the significant and extensive discounts the government uniquely enjoys.

USE OF CARS TO AND FROM WORK

QUESTION:

According to your latest Inspector General report, GSA's I.G. did a number of internal audits on the issue of GSA's use of government vehicles for home-to-work transportation. As you know, this has been an area of deep concern to the senior Senator from Wisconsin, Senator Proxmire, for many years.

What did your audits find -- have GSA employees been violating the law that says they cannot take a government car back and forth to work except in very limited circumstances?

ANSWER:

During our review of use of Government vehicles for home-to-work transportation we found GSA generally to be in compliance with the provisions of applicable regulations. In four regions, however, there were instances of noncompliance, including two cases of unauthorized usage. The discrepancies noted were as follows:

- In one region, two employees with assigned GOVs frequently used the vehicles for commuting between their residences and places of employment. This type of usage did not meet the criteria for authorizing employee use of a GOV.

- Authorizations (GSA Form 1733) for use of GOVs for home-to-work transportation were not always prepared and/or completed as required.

- Justifications were not always in sufficient detail to identify the reasons for GOV use and/or cited situations (e.g., being subject to call on a 24-hour basis) that were not considered adequate for authorizing GOV use.

These identified discrepancies resulted from misunderstanding of or unfamiliarity with the authorization requirements contained in GSA Order OAD P 5410.1. We found no evidence that the regulations were intentionally ignored. While the irregularities in the authorization process did not adversely affect operations, adherence to the procedures for home-to-work authorizations is necessary to assure proper control and to prevent unauthorized use.

Management concurred with our recommendations and took appropriate actions to enhance compliance with existing regulations.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

QUESTION.

Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

ANSWER.

The Administration is presently reviewing the application of biennial budgeting to the various programs of civilian agencies. A two-year budget for DOD and defense-related agencies is included in the 1988 Budget in accordance with section 1405 of the DOD Authorization Act, 1986, Public Law 99-145. Accordingly, two-year budgets were submitted for GSA's National Defense Stockpile Transaction Fund and the defense-related portion of the Operating Expenses, Federal Property Resources account.

GSA would not object to the biennial budget process for all accounts if it is determined by the Administration and the Congress that it would produce Government-wide benefits in the overall budget cycle. The benefits that GSA would achieve in two-year appropriations would probably be a reduction in time devoted to a full scale budget cycle each year. However, firm workload planning and policy decisions would be required for a two-year period, instead of one year at a time, to assure as much adequacy as possible for the second year.

QUESTION.

Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

ANSWER.

About 60% of GSA's direct annual operating expenses appropriations are for salaries and benefits which are fairly repetitious of the previous year's submission.

QUESTION.

What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

ANSWER.

We do not expect that there would be any additional difficulties in preparing and submitting a two-year budget. Some need for supplemental funding would undoubtedly continue to occur due to unforeseen requirements.

QUESTION: Please provide for the record your current schedule for construction of the Columbus, New Mexico border replacement facilities.

ANSWER:

The existing facility, owned by INS, is a 1,800 square feet concrete block building constructed 20-25 years ago about 500 feet from the international boundary. It has a small canopy over a one-vehicle inspection lane, no secondary vehicle inspection area, and no commercial import inspection facility.

Congress authorized the construction of a replacement facility and appropriated $2,680,000 in the FY 1987 budget. The schedule for completion is as follows:

Design Start	3/11/87	(Actual)
Design Completion	9/87	
Construction Start	1/88	
Construction Completion	1/89	

The firm of Holmes, Sabatini, Smith, and Eeds, of Albuquerque, New Mexico, was awarded the design contract.

The new facility will be located closer to the border. It will provide 6,800 square feet of occupiable area and will have two vehicle primary inspection lanes and six secondary inspection lanes. The truck dock will be able to handle four trucks for cargo examination. At the request of the Customs Service, the site plan was expanded to permit a larger import lot.

Luna County is acquiring all of the site so it can be conveyed to the U.S. Government in one deed. Site acquisition is to be completed by June 1987.

QUESTION SUBMITTED BY SENATOR J. BENNETT JOHNSTON

QUESTION: It has been brought to my attention by the city fathers in Baton Rouge, Louisiana that the existing Federal Courthouse is rapidly deteriorating. I also understand that GSA has made a preliminary review of the situation. Would you please comment on the need for a new Federal Courthouse to be built in Baton Rouge, Louisiana.

ANSWER: The existing Federal Building-Courthouse (FB-CT) in Baton Rouge is fully occupied. The building is in good condition. It has new carpeting and a new roof. The FB-CT houses the U.S. District Courts, the U.S. Marshal, Congressional offices, the Drug Enforcement Administration of the Department of Justice, and a GSA buildings management office.

Expansion space is required by the Courts to accommodate an additional District Judge and one additional magistrate's courtroom.

At the request of the House Committee on Public Works and Transportation, our Fort Worth Regional Office is reviewing alternative housing solutions to meet the expansion requirements of the U.S. Courts and other agencies' needs. We anticipate receipt of their study by April 1, 1987.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

STATEMENT OF FRANK G. BURKE, ACTING ARCHIVIST OF THE UNITED STATES

ACCOMPANIED BY CLAUDINE J. WEIHER, ACTING DEPUTY ARCHIVIST OF THE UNITED STATES

PREPARED STATEMENT

Senator DECONCINI. We are now going to go to the Archives. Senator Domenici will be here shortly. The next witness will be Mr. Frank Burke.

Mr. Burke, please summarize your statement. The full text of your statement will appear in the record.

[The statement follows:]

STATEMENT OF FRANK G. BURKE

I am Frank Burke, Acting Archivist of the United States. I have with me today Claudine Weiher, Acting Deputy Archivist.

I appreciate the opportunity to appear before you to present the proposed 1988 budget for the National Archives and Records Administration [NARA]. As you know, this agency was established on April 1, 1985, by enactment of the National Archives and Records Administration Act of 1984, Public Law 98–497 on October 19, 1984. NARA is nearing its second anniversary as an independent agency, and has completed most of the activities needed to become a completely independent agency. I would like to say that throughout the transition period, NARA continued to conduct its major functions without disruption.

NARA's continuing primary activity is to preserve the Nation's cultural heritage by preserving and making available the documentary record of our National Government, and to carry out our related responsibilities for the management, appraisal, and disposition of all Federal records and for the preservation, description, arrangement and availability of those records of permanent value. Throughout the country in 11 field Archives Branches, and here in the National Archives building in Washington, we carry out these archival functions and make the Nation's records of enduring value available for research by the Federal Government, scholars, and the general public.

We administer the system of Presidential libraries where papers and historical materials of American Presidents, and the papers of their associates, are preserved and made available for research. Each year a large number of visitors view significant historical materials displayed in major exhibits in the Presidential libraries. In addition, Presidential materials are administered pending the establishment of Presidential libraries. In October 1986, the Jimmy Carter Presidential Library opened its museum for visitors and shortly thereafter the library opened major portions of his papers for research.

NARA operates a system of 14 Federal records centers where noncurrent Federal records are stored and serviced economically for Federal agencies until eligible for disposal or transfer to the National Archives. Each year this program results in substanital cost savings for the Government by removing records from expensive agency office

space to low cost storage space provided by the center system, and by carrying out an active and effective records disposition program.

NARA is responsible for publishing administrative regulations, the laws, and Presidential documents, in the Federal Register and related publications. We make available to the general public all of the significant rulemaking of the executive branch.

Another of our important activities is the National Historical Publications and Records Commission. The budget requests no funding for the grants for fiscal year 1988, the Commission will continue in its advisory capacity coordinating and making recommendations on high priority publications and records projects and actively seeking private support for the program.

NARA also reviews for declassification security classified permanently valuable records and historical materials in accordance with Executive Order 12356.

CHANGES FROM FISCAL YEAR 1987 APPROPRIATED FUND LEVEL

Our request of $110,266,000 is a net increase of $9,082,000 over the fiscal year 1987 appropriation of $100,321,000 and $863,000 supplemental for the new Federal Employees' Retirement System. The request includes increases of $255,000 for startup costs for the Reagan Library, $3,471,000 for payments to the Federal buildings fund for the new Rent system, $2,374,000 for operation and maintenance costs for the National Archives building and the Presidential libraries, including the new Carter Llibrary, $744,000 for increased costs of goods and services, $408,000 for annualization of the 1987 pay raise, $2,389,000 for contributions to the Federal Employees' Retirement System and $3,704,000 to restore a portion of the program reductions made over the past several years in order to fund the grants program. The increases are offset by reductions of $4 million for grants, and $263,000 for A-76 initiatives.

PRESERVATION

The fiscal year 1988 requested funding level for preservation is $7,743,000, including $7 million for the preservation plan. Funding levels required for the 20-year preservation plan, which prescribes a systematic course of action to alleviate the current preservation backlog and to preclude the creation of any new backlog have not been met. We have had to absorb the grants funding from our regular programs and Gramm-Rudman cuts further reduced our budget base, thus hindering implementation of the 20-year plan.

In light of the reduced funding levels, we plan to review the entire 20-year preservation plan and study progress to date to determine appropriate annual funding levels. We anticipate that our fiscal year 1989 budget will reflect our revised plans for preservation.

SUMMARY

Except for increases to restore funds for base programs and fund the Reagan Library, and the elimination of grants funding, this budget is basically a continuation of programs at the fiscal year 1987 level and is intended to enable us to carry out our basic mission. It represents our assessment of resources necessary to continue the ongoing programs which are our mandated responsibilities.

Thank you for the opportunity to make this brief statement, Mr. Chairman. I will be pleased to respond to your questions.

INTRODUCTION OF ASSOCIATE

Dr. BURKE. Senator DeConcini, I am Frank Burke, the Acting Archivist of the United States and on my right is Claudine Weiher, the Acting Deputy Archivist.

I have submitted a formal statement for the record and I would like to just elaborate a bit on a few of the points in that statement and then I will be prepared for any questions that you might have.

DEATH OF DR. JAMES E. O'NEILL

I am grieved to report the untimely death of James E. O'Neill, who was the Assistant Archivist for Presidential libraries. He died in his office last Friday of a heart attack. Because of our many relations with the Reagan Library Foundation, the continuing situation with the Nixon Presidential materials and the need to administer eight other libraries, I have asked John Fawcett of the Herbert Hoover Library in West Branch, Iowa to act in Dr. O'Neill's place until a permanent replacement can be found. Dr. O'Neill's loss is a great loss to the Archives.

FISCAL YEAR 1987 ACTIVITIES

Some of the major activities at the National Archives in 1987 which are elaborated upon in the budget documents are continuations of what we have been doing for the last 2 years since our independence from the General Services Administration. We are continuing our progress toward office automation networking. The National Archives has some 31 facilities around the country from Seattle to Boston and Laguna Niguel to Atlanta.

OFFICE AUTOMATION

Office automation networking allows me to connect, practically at my desk, with some 240 other terminals within the system so that I can send information, or bulletins, and in turn gather information from the system itself. This has, I believe, improved our efficiency considerably in dealing with a system which we do not have regionalized. That is, there are no regional structures between the central office and the facilities in the field.

Another area of automation in which we are making comparable progress is the Presidential libraries network, which is our link to the eight Presidential libraries and any new libraries in the future. Researchers will be able to enter one library and ask about information that may be in any of the other libraries.

We did a prototype test of that system this year at the Ford Library in Ann Arbor, MI, and we are going to expand prototyping to two other libraries during the next year. We are also working on a system to permit the networking of our archival information network between the National Archives and the records of the Federal agencies, the courts, and the Congress, and the 11 branch Archives that we have throughout the country. This is following closely on the heels of the Presidential libraries network and ultimately will be linked with it so that the researcher will have access to both sources of information.

We have let a contract and are beginning the implementation of a major optical disc operating project to facilitate access to materials that might normally be put on microfilm but through an optical disc can be accessed much more quickly than in a microfilm situation. We are going to experiment with that over the next year.

PRESERVATION

There is, in fact, considerable activity and I could probably spend the entire hearing just talking about our automation progress, but there are other things that we are doing also. One of the other areas that the Congress and we have been concerned about over the last couple of years—in fact, for many years—has been the preservation of the documents within the National Archives.

Dr. Warner, my predecessor, had instituted a 20-year plan for the preservation of the 3½ billion documents that are in the National Archives and the other facilities. We have implemented that plan. There has been a substantially reduced level of preservation goals, however, because of funding loss over the last few years, and we are struggling to catch up and to reevaluate where that 20-year plan is going in the light of the reduced funding levels.

We have, however, taken initiatives that I believe are innovative and that are being copied and replicated by other archival organizations, especially the 50 State archives throughout the country. We have instituted a holding maintenance program wherein we, in effect, sweep through the Archives and look for particular instances of records deterioration and then concentrate on cleaning those up before going on through other parts of the complex maze of that building.

We have professionally improved our conservation staff to the point that young conservators now want to work at the National Archives in the conservation laboratory where we attempt to preserve on a precise document by document level some of our more valuable artifact documents and materials that are going on exhibit.

In the last 2 weeks we have begun the installation of a Jet Propulsion Laboratory project that we contracted for which will introduce NASA space technologv into the Archives through the construction of a charge-couple device camera. This camera will electronically analyze the documents that we have in our holdings and tell us before any other system could tell us whether any deterioration is taking place so that then we could take steps to stop such deterioration.

DECLASSIFICATION

In the area of declassification of classified materials, we are continuing that program. We have approximately 50 full-time equivalents [FTE] out of our own funds, and 15 full-time equivalents on a reimbursable basis mainly from the Department of State.

We have had a plan for declassifying materials over 30 years old. The original plan called for us to have 105 FTE's by 1987, but because of budgetary limitations we have not reached that level and I am afraid that we are falling behind in systematic declassification.

PERSONNEL

Senator DECONCINI. Let me interrupt you on that, Mr. Burke. You talk about your full-equivalency personnel. Your summary of employment on page 23 of your budget book shows that nearly 41 percent of your total work-years are devoted to clerical staff. At that rate, nearly every professional and technical staff person at the Archives would have his own clerical staff person.

Frankly, I think of many other agencies covered by this bill which do not have anything like that. Can you explain why you have an inordinately high clerical work force? Maybe there are some specific reasons that the committee needs to know.

Dr. BURKE. Clerical personnel in our organization include Archives technicians which are nonprofessional archivists who work along with the professional archivists in the records.

Senator DECONCINI. How many of those are there?

Dr. BURKE. How many Archives technicians are there? I would have to get that figure for you, sir.

Senator DECONCINI. Under technical you have 306 people. Are those the technical ones you are talking about?

Ms. WEIHER. Those are chemists, among others, truly technical.

Senator DECONCINI. Those are chemists?

Dr. BURKE. Chemists, conservators.

Senator DECONCINI. That is different than the ones you are making reference to here?

Ms. WEIHER. Yes.

Dr. BURKE. Yes. These technicians are paraprofessionals, in effect.

Senator DECONCINI. That is included in the clerical number of 675?

Dr. BURKE. That is correct, sir.

Senator DECONCINI. Well, supply us how many that is, will you please?

Dr. BURKE. All right, we will do that.

[The information follows:]

The number of clerical personnel in fiscal year 1988 includes 120 clerk typists, stenographers, and secretaries; 89 messengers, transcribers, copier, microform operators and other clerks; and 466 archives technicians and aides.

DECLASSIFICATION

Senator DECONCINI. Please, go ahead.

Dr. BURKE. In the declassification area, one of the problems that we see is the proposed security Archives which is being proposed as a private sector activity. This could pose severe problems for the National Archives in declassification if it proceeds as the plans have been laid out. This would put demands on our declassification staff that would probably overwhelm us and reduce our ability to do systematic declassification and have us respond strictly to declassification requests on item-by-item bases.

In the area that we are probably most known for this year—that is the celebration of the bicentennial of the signing of the Constitution—we are making it a national celebration at the National Archives. We are not just having activities here in Washington at the National Archives building but throughout our 11 branch Archives and in the Presidential libraries.

We have for the first time really produced a reproduction of the Constitution, what one might call life size. The Constitution has always been reproduced on a small scale because of the large size of the document itself. I do not have any boards to put up, but this is the first page of the four pages of the Constitution, which is a print that was made from the document as it now sits in the National Archives.

Senator DECONCINI. That is from the real document?

Dr. BURKE. This is directly from the document, in fact, taken through the glass and through the filters to get this print. The four pages are here. One can read every word.

Senator DECONCINI. And what are you going to do with those?

Dr. BURKE. These are for sale to the public. We anticipate and we have already had orders for schools, for public spaces, courtrooms, a whole variety of places.

Senator DECONCINI. Have you had any contact with the Bicentennial Commission on the Constitution?

Dr. BURKE. Yes, Senator. We are very closely in contact with the Bicentennial Commission. In fact, I am having lunch with Chief Justice Burger this week.

Senator DECONCINI. Are they aware of this project?

Dr. BURKE. Yes; they are. In fact, I believe that this is one of the projects that they have endorsed as a bicentennial initiative.

Although this is a little ungainly to carry around in your wallet, we have also produced a small pocket-size printed copy of the Constitution with the amendments that can be carried by anyone who wishes to have a Constitution nearby.

Senator DECONCINI. How many of those copies did you produce? The small ones.

Dr. BURKE. We produced approximately 20,000.

Senator DECONCINI. Not a large number.

Dr. BURKE. No.

Senator DECONCINI. Do you sell those?

Dr. BURKE. Yes; we do.

Senator DECONCINI. How much are they?

Dr. BURKE. They are $1.50.

Senator DECONCINI. Thank you.

Dr. BURKE. We are taking advantage of the fact that we have the Constitution and making its contents known to the general public. We have also just installed a new exhibit in the main rotunda of the National Archives surrounding the Constitution and the Declaration of Independence, and that exhibit is now open. This exhibit consists of original documents from the era of the Constitutional Convention itself.

We have another large exhibit area in which, on April 10, we will open the second part of that exhibit. It will deal with issues of the Constitution over the last 200 years from the records in the National Archives, essentially constitutional issues relating to the franchise, relating to the war making powers, and relating to Federal/State relations.

FISCAL YEAR 1988 BUDGET

Senator DECONCINI. Thank you, Dr. Burke. Let me get into a few questions here on specifics that I do not understand which are included in your budget. I hate to cut you off, but I will take the balance of that for the record.

You are asking for a rather healthy increase for your records centers next year, about 11 percent to be exact. The dollar increase will be $4.3 million over 1987 levels. Why do you need this increase in fiscal year 1988 and what would be the effect on your records centers if we were to merely give you last year's level, plus a small inflationary allowance of something in the neighborhood of 3 percent?

Dr. BURKE. A good part of that records centers increase is rent. In fact, our total request of $110,266,000 is a net increase of $9,082,000 over the fiscal year 1987 appropriation of $100,321,000 and the $863,000 supplemental for the Federal Employees' Retirement System. The request includes increases of $255,000 for startup costs for the Reagan Library and $3,471,000 for payments to the Federal buildings fund for the new Rent system.

Senator DECONCINI. What percentage is that of this increase? Do you know, or can you supply that for us?

Dr. BURKE. What percentage is that of what, Senator?

Senator DECONCINI. This is an 11-percent increase in the records centers and you say some of it is due to rent.

Ms. WEIHER. $3 million of it, sir.

Senator DECONCINI. $3 million of it?

Ms. WEIHER. Yes, sir; over $3 million for the entire agency but $2 million for the records centers.

Senator DECONCINI. So that is a good quarter of it, almost, is it not? OK, go ahead.

Dr. BURKE. We are asking for $2,374,000 for operation and maintenance costs for the National Archives building and the Presidential libraries, including the new Carter Library, and $744,000 for increased costs of goods and services and $408,000 for annualization of the 1987 pay raise.

Senator DECONCINI. I am just talking about the records centers. Just review the records centers for me. There is $3 million just for the records centers for rent?

Ms. WEIHER. The total Rent increase, sir, is $3.4 million.

Senator DECONCINI. How much of that is applicable to the records centers?

Ms. WEIHER. About $2 million, sir, and the rest to our Archives branches, charged to the Archives program, co-located in the centers but charged to a different program.

Senator DECONCINI. And then you have O&M and goods and services also attributed to the records centers.

Ms. WEIHER. Yes; O&M, goods and services, and personnel.

Senator DECONCINI. And what does that amount to, or would you like to supply that for us?

Ms. WEIHER. Recurring reimbursables is $32,000, goods and services is $144,000, sir.

Senator DECONCINI. Just for the records centers?

Ms. WEIHER. Yes, just for the records centers, sir.

Senator DECONCINI. So that makes up almost $3 million. Where does the other $1.3 million come from? Can you help me on that?

Ms. WEIHER. FERS contributions, sir.

Senator DECONCINI. FERS. How much is that?

Ms. WEIHER. $904,000 for the records centers, sir.

Senator DECONCINI. OK.

Ms. WEIHER. And a pay raise annualization of $148,000, sir.

GRANTS

Senator DECONCINI. Very good. Thank you. Let me ask you this question. Mr. Burke, last year Congress provided $4 million for grants under the National Historic Publication and Records Commission over the objection of the administration. These grants make it possible for universities to publish historic papers and documents. In fiscal year 1988 no grant money is being requested. Did you request OMB moneys for this area?

Dr. BURKE. Yes; Senator, I have requested it every year.

Senator DECONCINI. How much did you request? Do you remember?

Dr. BURKE. I believe I requested the authorized amount of $5 million.

Senator DECONCINI. $5 million. And you were turned down. OK. I have no further questions. Do you want to summarize and finish up?

ARCHIVES ANNEX

Dr. BURKE. I think that the one thing that is confronting the National Archives that has confronted it for years and we have not found a solution yet is the problem of space. We were, in the 1970's, pretty well along on plans for another building when those plans were set aside. We are now overstuffed in the National Archives building and spilling over into the facility in Suitland, which was not originally built as a structure for archives but rather for temporary holding of records as a records center.

We actually now have archival materials in three facilities in the Washington area and I am informed that this week or next we will be signing an agreement with the Army to take over the Vietnam records, which is about 30,000 cubic feet of material. It will be very difficult to house those materials in the current space that we have in the manner in which they should be housed as archival materials.

We have been talking to various people around the administration about the need for an additional facility, certainly not something down-

town in the high rent district, but perhaps around the beltway, on Federal land, if possible. This facility would be built to the specifications of the 1990's instead of what the National Archives building is, built to the specifications of the 1930's.

We will continue to work with all the appropriate parties in order to accomplish that, we hope, over the next decade. That is all that I have as a statement, Senator. I would be happy to respond to any other questions that you might have.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you. I have a few other questions. I will submit them for you to respond to for the record.

Thank you very much for bringing us up to date.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Additional Committee Questions

FY 1988 BUDGET REQUEST

Senator DeConcini: What was your initial request to the Office of Management and Budget; where did they cut you back if at all; and why? Be as specific as possible.

Dr. Burke: Our initial request to the Office of Management and Budget totaled $112,601 thousand, an amount above the Administration's policy level.

NARA requested restoration of $263 thousand in A-76 savings. A study conducted by Price Waterhouse determined that the records center system is an efficient operation and that no changes could be made to bring about significant savings. NARA also requested $1,416 thousand for relocation expenses for the New York Archives field branch. The facilities at the present site are inadequate and inaccessible by public transportation. A further request was made for $500 thousand for the design study of a proposed Archives Annex which would provide approximately one million square feet of new archival storage space.

The request for funds for relocation of the New York Archives field branch was considered premature since a new site has not yet been selected. In regard to the A-76 restoration and the Archives Annex requests, the Administration felt that these costs could be absorbed within their recommended level of funding. NAPA's request for $5 million for the grants program was also denied because the Adminisration believes it is time for local agencies and private institutions to continue this program.

Our present request of $110,266 thousand includes $3,252 thousand for FERS costs.

FY 1987 PAY RAISE

Senator DeConcini: Could you tell us how much your 3% pay raise obligations will be in fiscal 1987 and where you will have to make the cuts in order to absorb these mandatory costs? Be specific and tell us how this forced absorption will affect your operations.

Dr. Burke: Our estimated FY 1987 pay raise is $1,184 thousand. We anticipated absorbing the entire amount through deferring certain repairs and alterations to the Presidential libraries and by postponing certain equipment purchases. We also planned to maintain the lower personnel level which we operated under in FY 1986. At that time, we reduced our full time permanent level by 104 because we could not fund those positions. Now we understand that $592 thousand has been added to our FY 1987 supplemental request to fund half the pay raise which will help the situation considerably.

PROGRAM RESTORATIONS

Senator DeConcini: What are the "program restorations" that you are seeking and what would be the effect on your missions if we were to disallow this "catch up" money in fiscal 1988?

Dr. Burke: Over the past few years, NARA has sustained several large reductions to our budget base. Our request for program restorations would compensate for at least some of the funds we have lost from our base. I will highlight the major reductions to NARA's budget which have led to our restoration request.

The FY 1986 and FY 1987 appropriations required that we fund part or all of the grants program without providing any additional funds for this purpose. For both years we had to reprogram funds from our base to provide funds for the grants program. In addition, we will be absorbing part or all of the effects of the FY 1987 pay raise.

To compensate for these reductions, NARA has had to cut back in many areas. The activities identified in the 20 year preservation plan are being performed but significantly below targeted levels. Specifically, we had to reduce preservation funding from a planned $9,319 thousand to $5,535 thousand in FY 1986 to accommodate the grants and Gramm Rudman Hollings reductions. The FY 1986 hiring and promotion freeze has significantly reduced the agency's full time program personnel, over 100 permanents from a base of 1,950. Absent these program restorations, we will not be able to replace this staff. Equipment replacement and repairs and alterations to the Presidential libraries have been delayed indefinitely.

The $3.7 million requested here for program restorations will allow us to begin responding to some of these needs. Specifically, we intend to spend $2.7 million to fund the key positions lost under the 1986 freeze; $900 thousand as an increase to preservation; and an additional $100 thousand for equipment replacement.

FINDING AID ENTRIES

Senator DeConcini: What are "finding aid entries" and why do you need to triple your budget for such entries next year?

Dr. Burke: The chart on page 15 of our justification material shows workload rather than dollars. The workload for the number of finding aid entries will triple in FY 1988 because the National Archives Guide is currently being revised but the entries will not be counted until a final copy is issued in FY 1988. The funds budgeted for finding aid entries have not tripled.

Finding aid entries are narrative statements which provide descriptions of the contents of a series of records. An entry

includes a title for the series, a description of how individual records are arranged within the series and how large the series is, and a summary of information contained in the records.

Questions Submitted by Senator Barbara A. Mikulski

ARCHIVAL RECORDS

Senator Mikulski: Where are archival records currently stored, processed and referenced in the Washington metropolitan area?

Dr. Burke: Approximately 800,000 cubic feet of records are housed in the National Archives Building. Another 427,000 cubic feet of archival records are stored in the Washington National Records Center in Suitland, Maryland, and 80,000 cubic feet of records are stored at a leased facility in Alexandria, Virginia.

Senator Mikulski: What are the problems in storing archival records in these facilities at different locations?

Dr. Burke: Built in the 1960s as a low-cost storage facility for temporary Federal records, the Washington National Records Center does not provide the necessary environmental conditions for the storage and processing of archival records. Although the storage of archival records at the Suitland Records Center was always seen as a temporary measure, the National Archives and Records Administration (NARA) has been forced to establish archival support facilities (e.g. research room, conservation lab, and duplication lab) there to accommodate the growing amount of archival records stored there.

Another short-term solution was the leasing in 1979 of 120,000 square foot storage facility in Alexandria, Virginia. Like the Suitland Records Center, this facility was not designed for archival storage. Again, NARA had to establish duplicate archival support services such as research rooms and labs in inadequate space. This use of leased storage can only be seen as a necessary expedient until a permanent solution can be achieved.

ARCHIVES ANNEX

Senator Mikulski: What is the outlook for NARA if a new facility is not built soon?

Dr. Burke: The National Archives currently has 479,000 cubic feet of archival records at the Suitland Records Center waiting to be accessioned and processed and estimates annual growth of 24,000 cubic feet. Without construction of a new archival facility, NARA will be forced to search for additional rented storage space to house historically valuable records scheduled to be transferred by Federal agencies into the Archives' custody

and safekeeping. This will result in more records being stored in locations that cannot meet the National Bureau of Standards environmental storage standards for archival records. In addition, the continued dispersal of archival records wastes resources by forcing NARA to operate duplicate facilities such as research rooms and laboratories in each location and makes the research activities of federal agencies and the general public more difficult and time consuming.

ARCHIVES BUILDING

Senator Mikulski: What is the condition of the National Archives Building?

Dr. Burke: The National Archives Building at 7th and Pennsylvania Avenue has been basically filled to capacity since the late 1960s. Although temperature and humidity systems have been renovated and upgraded several times since the building opened in 1934, environmental controls remain deficient. A study of the building completed in 1985 by Shepley Bulfinch Richardson and Abbott, Inc., recommended renovations to correct deficiencies in environmental and records storage conditions and expand currently inadequate public use areas. These essential renovations require that records be temporarily stored offsite during renovation of the National Archives Building.

In addition to lack of sufficient general archives storage space and outdated environmental conditions, the National Archives Building never had certain special storage facilities, such as cold storage vaults for color film, and it long ago ran out of the heavy floor-load space required for the storage of maps and other special storage facilities for audio-visual and machine-readable (magnetic tape) archives.

ARCHIVES ANNEX

Senator Mikulski: Is this the National Archives first attempt to acquire a new archival facility?

Dr. Burke: No. In 1970 Archives officials began gathering information on what the Archives archival space requirements would be through 2010. This study was to enable Archives' officials to convey these needs to architects and engineers who would be called upon to design and build this unique facility. The Pennsylvania Avenue Development Corporation (PADC) was interested in the possibility of incorporating a new archival storage facility into their plans for the development of the parcel of land directly across Pennsylvania Avenue from the National Archives Building. The National Archives and the PADC worked closely to develop plans for the Market Square site, including contracting for required environmental impact studies and architectual designs. Archives officials also began working with the Public Buildings Service (PBS) and the General Services Administration (GSA) to develop a prospectus for the new archival storage facility.

After several years of extensive work to develop the National Archives' space requirements and a prospectus, Archives officials were ready to submit the plans to Congress. However, although GSA Administrators from 1970 through 1978 had supported the Archives efforts, the new Administrator, Rowland G. Freeman, did not. Administrator Freeman decided that GSA should reduce its property holdings in the Washington metropolitan area rather than expand them. Consequently, he declined to forward the prospectus for the new archives facility and instructed Archives officials to develop a plan to move large quantities of archival records out of Washington to regional facilities. Freeman's plan was eventually deemed unreasonable but only after many months of debate.

In the meantime, PADC was forced to devise alternative site development plans for the Market Square area. While the need for additional archival storage space remained, the Archives had missed an opportunity to propose to Congress that a new building be constructed on the Market Square parcel as part of the PADC redevelopment of Pennsylvania Avenue. More importantly, the National Archives missed its best opportunity to build a new facility downtown on a site close to the existing National Archives Building. Unfortunately, alternative downtown sites, such as the Old Pension Building, the post office building on Massachusetts Avenue and North Capitol Street, and the Government Printing Office building, were determined to be unsuitable for the state-of-the-art archival building needed by the National Archives.

In the early 1980s, although space remained a pressing issue, Archives officials were forced to focus on other more immediate problems including its mounting preservation problems. In 1983, in conjunction with the National Archives Building renovation study, Archives officials reopened discussions with the PBS about possible sites for a new archival facility. After considerable review of downtown and suburban sites, PBS recommended the Suitland Federal complex in Suitland, Maryland.

Senator Mikulski: What is NARA currently doing to plan for the new facility?

Dr. Burke: Once NARA realized that a downtown site for a new building was unlikely, it sought ways to expand public use space in the National Archives Building. A new facility in the suburbs did not seem to be an ideal location for exhibits, conferences, a theatre, tour facilities, and family history center, aimed at attracting tourists visiting other DC points of interest such as the Smithsonian museums. Archives officials emphasized to PBS that any implementation of a plan to provide additional public use space and better environmental conditions in the National Archives Building, was coupled with the construction of a new archives facility. The Shepley Bulfinch study provided the Archives with a detailed design proposal for renovating the National Archives Building and expanding the

inadequate public use space. With detailed plans outlining the future mission and configuration of the National Archives Building, planning efforts for a new facility have once again become a priority for NARA.

Experts in facility planning will begin work in 1987 on a major study for a new archival building. The study will identify NARA's program requirements, document functional relationships, and recommend the type and configuration of a building that meets NARA's special needs. The planners will also prepare design and construction cost estimates and evaluate alternative sites.

After completion of this planning study, NARA will seek authorization to begin the design and construction of the new facility

Senator Mikulski: When will NARA need design funds? How much will be required?

Dr. Burke: If the design funds can be appropriated as no-year funds, NARA will accept the funds in FY 1988 to be used at the completion of the new facility planning study. The cost of design is approximately 6 percent of the construction costs of the new facility, or $6,700,000.

Senator Mikulski: What are the goals for the new facility?

Dr. Burke: Goals for the new building differ in some significant details from that envisioned in the 1970s. The necessity of planning for suburban site coupled with the renovation plans for the National Archives Building require revised goals.

Unlike the National Archives Building which will emphasize public outreach programs in addition to the archival functions, the new facility will be used primarily to house and process archival records. It will be used almost exclusively by federal agencies and general public researchers and the archival staff that serve them. Its suburban site dictates that the building duplicate archival support services such as laboratories, ADP facilities, research rooms, etc. The building will incorporate space for records storage, records processing, on-site research, preservation, administration, and maintenance support.

The new facility must be large enough to accommodate the records currently located at the Maryland and Virginia facilities, backlogged accessions of records scheduled for transfer to the National Archives from the Records Center, and expected accessions. The new building also will have to accommodate on a temporary basis (several years) records moved from the National Archives Building while the renovation of that building is underway. By 1995 the National Archives will need records storage space for over 1 million cubic feet of records.

The new building is visualized as an expandable building which will initially provide approximately 1 million square feet for records storage and program support areas. Since the National Archives has an ever expanding need for archival storage space, the building will be constructed in a manner which allows additions to the building to be constructed with a minimum of disruption. It will be of a permanent, utilitarian design. It will have environmental conditions suitable for the preservation of a variety of historical records. Current standards established by the National Bureau of Standards and National Academy of Sciences will serve as the basis for the buildings environmental controls. It will have special security systems for the protection of records classified up to Top Secret.

Senator Mikulski: How much will this new facility cost?

Dr. Burke: Excluding the cost of land acquisition, the estimated construction cost is $112.00 per square foot or $112 million.

Senator Mikulski: How many people will work in the new facility?

Dr. Burke: At full capacity, there will be approximately 625 NARA employees working in the new facility.

Questions Submitted by Senator Pete V. Domenici

BIENNIAL BUDGET

Senator Domenici: Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

Dr. Burke: NARA favors a biennial budget process. A two-year appropriation would allow better management of resources. Too often under the current system, we begin the fiscal year without an approved funding level. Not only is this a drawback to effective management during the current year, but it adds to the difficulty of formulating budget estimates for the following year.

Senator Domenici: Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Dr. Burke: In FY 1988, approximately 93% of our appropriation request is repetitive of the FY 1987 request. In FY 1988, we have requested increases for the Reagan Library, for the Federal Employees Retirement System and for program restorations. None of these increases were included in our original FY 1987 request of $101,321 thousand.

Senator Domenici: What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

Dr. Burke: Estimates of future obligations might be less accurate because agencies would be predicting costs for nearly three years in the future. Estimates would need to be revised at the start of the second fiscal year to account for economic and program changes. Some of these changes may require supplemental requests.

The main difficulty might be accountability. When will an agency be held accountable to its appropriated limitation, at the end of both fiscal years or at the end of each? Will appropriations still be apportioned annually and if so, can funds be reprogrammed to the second fiscal year if not used in the first?

Senator Domenici: If you oppose the biennial budget concept, please give this subcommittee your reasons why?

Dr. Burke: NARA supports the biennial budget concept.

EXECUTIVE OFFICE OF THE PRESIDENT

NATIONAL SECURITY COUNCIL

STATEMENT OF GRANT S. GREEN, JR., EXECUTIVE SECRETARY
ACCOMPANIED BY MARY A. DIX, ADMINISTRATIVE OFFICER

OPENING STATEMENT

Senator DECONCINI. Our next witness will be Mr. Grant S. Green, Jr., Executive Secretary of the National Security Council. He will be accompanied, I understand, by Ms. Mary Dix, Administrative Officer of the NSC.

Mr. Green, while you are sitting down, as I mentioned in my opening remarks, it is not the intention of this subcommittee to go on any witch hunt regarding the National Security Council, nor do we intend to open all of the wounds of the so-called Iran/Contra affair. But we believe it is totally appropriate that we give your small, but very important, agency a more thorough examination than has been done in prior years.

The NSC has had a rough time, but in my observation, much of its difficulties stem from lax controls. It is our job to make sure that all of our agencies are spending their tax dollars wisely, properly, and with full disclosure to the committee. Obviously, this has not been done in the case of the NSC.

Mr. Green, you have only been on board, I understand, for 2 months, so it is probably unfair to unload all of our questions on you, but most of the witnesses who should be here are no longer in office. I talked to Mr. Carlucci this morning and he indicated that he was pleased to have you here and happy to respond to any of our questions and concerns of the expenditures and management of the NSC.

PREPARED STATEMENT

I have reviewed your statement here, I appreciate it, and it will appear in the record in full. If you would summarize it, I would appreciate that even more.

[The statement follows:]

STATEMENT OF GRANT S. GREEN, JR.

I am pleased to have the chance to testify today on the NSC budget. In the wake of the revelations of the Iran affair, I think it is also appropriate and desirable to first say a few words about the reforms that have recently been undertaken in NSC procedures, staffing, and responsibilities.

These reforms include a number of measures that were adopted at the beginning of this year, when Frank Carlucci took over as Assistant to the President for National Security Affairs. And they include steps that will be taken as we implement the recommendations of the President's Special Review Board -- the Tower Board -- as the President promised in his address to the Nation last Wednesday. The President has directed Mr. Carlucci to report back to him on what further steps should be taken in this regard, and promised last Wednesday to give a full report to the Congress by the end of this month on all the steps taken in line with the Tower Report's conclusions.

But I can give you a preliminary report now on the many changes that have been made.

The Tower Board presented what it called a "model...for the National Security Council system," and it also pointed out that this model was not new; it was really the same role and function that the NSC system was always intended to carry out:

-- The National Security Council itself (that is, the Cabinet-level group of principals chaired by the President) has the job of advising the President and also helping ensure coordination among the departments and agencies in matters involving the national security.

-- The Assistant to the President for National Security Affairs is a member of the President's staff, an adviser to the President, a manager of the interagency process, and an "honest broker" in seeing that all views are heard, options are presented, decisions made, and implementation monitored.

-- The NSC staff was authorized by the 1947 National Security

Act to assist in the process of interagency coordination, development of policy, and overseeing the implementation of policy.

This structure, as you know, has evolved over time and been used by different Presidents in different ways. It is an inherently flexible instrument of Presidential management. But the Tower Board has clearly described a pattern of activity in the Iran affair that went beyond the proper interagency policy management role to which the NSC system traditionally confined itself.

What has been done to correct this situation?

First, the President deserves credit for creating the Tower Board and asking it to conduct a no-holds-barred investigation into the controversial events and to draw appropriate lessons. The Board's report has produced an excellent history of the NSC and its proper role and responsibilities.

Second, there is a new team in place. Frank Carlucci, as the President said, is a man trusted and respected for his experience and judgment. One-third of the NSC professional staff consists of new people.

Third, the new team at the NSC is committed to a proper role and style -- a low public profile; sound advice and management, not implementation and execution; promoting cooperation and coordination, not competing with the departments and agencies. Better record-keeping procedures have been instituted.

Fourth, changes have been made in the way the NSC staff is organized. A more streamlined organization has been created and strict vertical lines of authority have been imposed. Staff papers go to Mr. Carlucci from the Senior Directors. The oversight role of the Executive Secretary has been strengthened, ensuring better management and proper control over the transmittal of documents throughout the NSC staff.

Fifth, as the President stated in his address to the nation,

he has "created the post of NSC Legal Adviser to assure a greater sensitivity to matters of law." The Office of Legal Adviser will provide expert counsel to the National Security Adviser, his Deputy, and the NSC staff. The Legal Adviser will help see to it that legal considerations are fully addressed in the NSC process; will be cognizant of all NSC activities; and, of course, will help assure that those activities are fully accountable. These are important recommendations of the Tower Board. Paul Stevens, newly-appointed as NSC Legal Adviser, is with me here at today's hearing.

Sixth, a directive has been issued strictly prohibiting the NSC staff itself from engaging in special activities (that is, covert operations) as defined in E.O. 12333. The NSC Legal Adviser has the particular responsibility to review this process and NSC staff actions affecting special activities.

Seventh, the President has ordered a comprehensive policy review of ongoing covert operations as well as procedures for their approval and coordination--that review is proceeding actively.

Eighth, the President has reaffirmed his strong commitment to the Congressional oversight process. Procedures for disclosure and consultation on intelligence matters will be followed in letter and in spirit.

Ninth, the process of interagency coordination is being restored and revitalized. The National Security Adviser, and his Deputy, have already chaired numerous new senior-level policy review groups to ensure better coordination -- anticipating one of the Tower Board's organizational recommendations.

Tenth, the President has ordered policy reviews in several major areas, through the NSC interagency process, to ensure a more systematic approach to policy, coherence within the U.S. Government, and the expeditious presentation of key issues to the President for his decision.

As I said, these are the preliminary steps already taken.

Further steps may be taken in the weeks to come, and a fuller report will go to the Congress by the end of March.

Mr. Chairman, let me turn now to our budget request for the coming year.

For FY 1988, the National Security Council is requesting a budget of $5,324,000, which will also provide funding for the President's Intelligence Oversight Board and the President's Foreign Intelligence Advisory Board. This request represents a $684,000 increase over our current proposed FY 87 request of $4,640,000.

Two factors force this request. First, due to an uncontrollable increase in the cost of currently occupied space charged by the General Services Administration, $561,000 is needed. Second, $123,000 is needed to meet the annualized cost of the 3 percent January 1987 pay raise and the new Federal Employees' Retirement System.

Concurrently, the NSC has requested two supplementals for FY 1987. The first supplemental for $28,000 will meet one-half the cost of the 3 percent January 1987 pay raise while the second supplemental will provide $62,000 for the cost of the new Federal Retirement System.

The details of our budget request have been made available to the Subcommittee. Mr. Chairman, I would be pleased to answer any questions.

BIOGRAPHY OF GRANT S. GREEN, JR.

Mr. Green was appointed by the President, January 1987, to the position of Special Assistant to the President for National Security Affairs and Executive Secretary for the National Security Council. Mr. Green directs the NSC Staff in support of the President and his Assistant for National Security Affairs.

Since January 1983, Mr. Green has served in several senior management positions with Sears World Trade. Most recently as Assistant to the Chairman.

Before joining Sears World Trade, Mr. Green served in the U.S. Army (in the grade of Colonel) where he last held the position of Military Assistant to the Deputy Secretary of Defense. Throughout his twenty-two year military career Mr. Green served in a variety of Infantry and Aviation command and staff assignments including tours of duty with the 82nd Airborne

Division, the 25th Infantry Division, and the 2nd Infantry Division, where he commanded the 2nd Aviation Battalion. He also served with the 1st Cavalry Division and the 101st (Airborne) Airmobile Division in Vietnam where he commanded an assault helicopter company. Major staff assignments include five years on the Army General Staff in the Pentagon and four years on the immediate staff of the Secretary and Deputy Secretary of Defense. He is a qualified pilot of both rotary and fixed wing aircraft, including both multi-engine and instrument ratings.

Mr. Green is a graduate of the University of Arkansas (B.A., 1961) and George Washington University (M.S., 1976). He also attended the Army Command and General Staff College and the Air War College. He is the recipient of the Defense Distinguished Service Medal, Defense Superior Service Medal, Distinguished Flying Cross, Bronze Star Medal (2), Army Commendation Medal, Air Medal (14) and several awards from foreign governments.

Mr. Green is married to the former Virginia Dondy. He was born June 16, 1938 in Seattle, Washington and currently resides in Alexandria, Virginia.

Biography of Mary A. Dix

Mrs. Dix is the Administrative Officer for the National Security Council. She has served in this capacity since May 1984.

Mrs. Dix was raised in Minnesota and received her Bachelor of Science Degree in Education in 1969 and her Master's Degree in Program Development in 1976 from the University of Minnesota. Mrs. Dix taught high school English in Northern Minnesota from 1969-1978. She joined the United States Army from 1978-1982 during which time she served in the Office of the Chief of Staff, Army, and was also the speechwriter for the Sergeant Major of the Army. She earned both the Army Commendation Medal and the Meritorious Service Medal.

In 1982, Mrs. Dix was employed as the Administration Manager for a computer association in Rosslyn, Virginia, where her responsibilities covered the areas of finance, administration and the registration process for the largest computer conference in the United States. In 1983, she joined the Office of Administration as a management analyst where she developed organizational procedures for the Administrative Operations Division.

Mrs. Dix lives in Alexandria, Virginia, with her husband, Marvin. She was born on September 18, 1947.

INTRODUCTION OF ASSOCIATES

Mr. GREEN. Thank you very much, sir. I would like to introduce two other people who are with me today.

Senator DECONCINI. Fine. If you want them to sit down with you here, that is fine with me.

Mr. GREEN. This is Alison Fortier, who is our newly appointed head of legislative affairs, and Paul Stevens, who is our newly appointed legal counsel.

Senator DECONCINI. Welcome, fine. Do you want to have them join you up there at the table?

Ms. FORTIER. We are fine back here.

Senator DECONCINI. OK.

Mr. GREEN. I understand that this is a semihistoric moment for the NSC in that we have not for many years testified before this subcommittee or the Senate. We appreciate the opportunity to appear. Although we are relatively new, we will be—as I am sure Frank indicated to you—most forthcoming. Anything that we cannot answer here, I will be more than happy to provide for the record.

You have before you, a copy of our prepared statement and the budget submission, which includes funding for fiscal year 1988 in the amount of $5,324,000. This request represents a $684,000 increase over the fiscal year 1987 request. This is due to increased cost of GSA space, in the Old Executive Office Building, and also to meet the annualized cost of the 3-percent pay raise which went into effect in January and the new Federal Employees' Retirement System.

With that, sir, I am prepared to answer any questions you may have.

INITIATION OF NEW PROCEDURES

Senator DECONCINI. Thank you, Mr. Green. According to the Tower Commission report, Mr. Green, the failure of the Iranian arms initiative stemmed from NSC abandoning its role as purely advisor, coordinator, and overseer of national security policy and ignoring the established Government process. Among the deficiencies in this particular program cited by the Tower Commission are: Customary review of a program, especially at the subcabinet level; inadequate record keeping; control of the operations by NSC staff; inadequate scrutiny of the legality of the program; and no notification of the Congress.

Can you please tell the committee what steps the NSC has taken so that mistakes such as these are not repeated. I would like you to address each one of them if you can, or if you want to submit part of it, fine.

Mr. GREEN. Sir, let me say that certainly the Tower Commission report and the other ongoing inquiries into the activities surrounding the Iran affair are in themselves a great deterrent. We, in the NSC, very frankly, treat this—the Tower report as our bible. It has been fully embraced by the President and by Frank Carlucci.

Let me just run through a few things that have been done—in response to your questions and in response to some of the findings and recommendations made by the Tower group.

First of all, as you recognize, there is a new team at the NSC—a new senior team—headed by Frank Carlucci, who I think you will agree is a much respected public servant. Fully one-third of the professional staff at the NSC has been replaced, with the preponderance of those at the most senior levels, and that replacement process is not yet complete.

The proper functions of the assistant to the President for National Security Affairs as both an honest broker for the NSC process and adviser to the President have been restored. Another important area; clear vertical lines of authority have been established by the National Security Advisor. There will be no freelancing. Rather than 50 or so separate professionals reporting directly to the National Security Advisor, the reporting from the staff is limited now to 10 directors—regional and functional—and four principal staff officers.

Senator DECONCINI. Can you detail that later, if you would like, unless it is classified in some nature, as to these particular 10 areas?

Mr. GREEN. Yes, sir; I will. Incidentally, that is a reduction from the pre-January timeframe when there were 13 regional/functional directors and 5 principal staff officers. Not only have the vertical lines of reporting been reinforced, but the span of control has been reduced. Next, the important new position of NSC legal adviser has been established with the clout to assure full accountability in the areas that you mentioned.

ESTABLISHMENT OF LEGAL OFFICE

Senator DECONCINI. There was no legal adviser before?

Mr. GREEN. There was no legal adviser, per se.

Senator DECONCINI. Where did the NSC get legal advice from?

Mr. GREEN. We had on the books a general counsel, but he wore two hats. Paul Stevens wears one. He is Frank's legal adviser, and that is his sole function. Incidentally, we plan to reinforce that office very soon with a second lawyer.

Senator DECONCINI. Who was the legal adviser before that? Do you know?

Mr. GREEN. Commander Paul Thompson, who also acted as the military assistant to the National Security Advisor. So he was both a military assistant and general counsel.

SPECIAL OPERATIONS

To continue with some of the things done to improve the NSC process, Mr. Carlucci has put out a new directive which specifically prohibits the NSC staff itself from participating in any special activities—covert operations. Our job in this area, as it is across the full spectrum is to facilitate, integrate and coordinate. We will not participate in operational activities.

As instructed by the President, the NSC has initiated a sweeping review of existing covert actions. That review is ongoing as we speak. It will also address the adequacy of procedures for approval and implementation of covert activities.

The President has also reaffirmed his strong commitment to make the congressional oversight process work. Procedures for disclosure and consultation about intelligence matters will be followed.

Finally, the process of interagency coordination has been revitalized. By that I mean we have strict ground rules on the processing of paper work through the NSC.

Before, there were occasions when actions would come directly to a staff officer and there was little or no control or oversight at the executive secretary level. There was periodically no oversight and review even at the senior director level.

Senator DECONCINI. That is helpful. You indicate that all covert activities are being reviewed. Does the NSC have all of those activities, as far as you are concerned, laid before it? Do you know about them all?

Mr. GREEN. Yes, sir; I feel that we do. And that review, incidentally, is being conducted by Frank's deputy, Gen. Colin Powell, who chairs the Planning and Coordination Group [PCG], which is, as I said, right now reviewing all findings as to their applicability and adherance to proper conduct in carrying those out.

Senator DECONCINI. One of the concerns that the Tower Commission raised was the use by the NSC of private individuals to carry out some of these policies. What have you done to curtail the use of this private sector, or private individuals?

Mr. GREEN. Well, as the Tower Board indicated, there may be some occasions—hopefully none, or very few—where private individuals will be used by the administration to carry out specific functions.

Senator DECONCINI. And who would approve that? Mr. Carlucci?

Mr. GREEN. I have to assume, sir, that either the President or the National Security Advisor would approve that.

Senator DECONCINI. That is not a written policy or one that has been expressed, is it?

Mr. GREEN. Not that I know of, no, sir.

EXTRANEOUS EQUIPMENT

Senator DECONCINI. According to the Tower report, Lieutenant Colonel North, former Major General Secord, Theodore Shackley, Thomas Clines, and the CIA Station Chief in Costa Rica were provided with some very sophisticated encription devices for which the users must have the highest level security clearance.

Do you know when these devices were provided to the NSC? Who authorized the use of these encription devices? Does the NSC still have them? Are they still being used to communicate with General Secord, Shackley, or anyone else?

Mr. GREEN. No, sir; I do not know when they were received by Colonel North or General Secord or any of the others. As far as I know, we have none of those devices on our records and there is certainly no one communicating with the individuals you mentioned.

Senator DECONCINI. Do you know when they were taken out?

Ms. DIX. When the FBI started to investigate, around November 26, I was informed that they had been given to us, I think, in an earlier timeframe. We in the administrative office never saw them. Lieutenant Colonel North signed for them directly with, I believe it was the National Security Agency. They were never on our property rolls at all.

Senator DECONCINI. You say on your property rolls. They were not transferred to you but they were physically there and they left in November 1986?

Ms. DIX. Yes.

Senator DECONCINI. Do you know if the NSA came and picked them up?

Ms. DIX. I would not want to state it definitely, but I think the FBI took them.

Senator DECONCINI. The FBI. Do you know what they were?

Ms. DIX. No; I never saw them.

Senator DECONCINI. Do you have any record as to what they amounted to?

Ms. DIX. Not in our office, no.

Senator DECONCINI. Have you asked the NSA about what they were?

Ms. DIX. Well, one of the FBI agents explained to me what they were, what they were used for, and when he realized that we had no knowledge of them, he just took it from there and handled it with the other agency.

Senator DECONCINI. So you do not really know then what it was that was there and what it was that was taken, except that the FBI took what was purported to be the so-called encription devices of a very sensitive nature; is that right?

Ms. DIX. That is correct, sir.

Senator DECONCINI. Are you satisfied, Mr. Green, that there are none of those still there?

Mr. GREEN. Yes, sir; I am.

Senator DECONCINI. How do you assess that? You must have a lot of equipment and since the material is——

Mr. GREEN. Well, I have been in Lieutenant Colonel North's old office and there are none of the devices that you mentioned.

Senator DECONCINI. Have you taken an inventory of all the communication devices that are available or at the NSC?

Mr. GREEN. No, sir; not personally, I have not.

Senator DECONCINI. Has the staff done so?

Ms. DIX. Yes; we know how many display writers, Profs, PC's we have, we know exactly how many we have.

Senator DECONCINI. So you would know if there was anything there——

Ms. DIX. That is correct.

Senator DECONCINI [continuing]. That might be of a sensitive nature——

Ms. DIX. That is correct.

Senator DECONCINI [continuing]. Outside of what is your normal inventory; is that right?

Ms. DIX. Right now we would sir, yes.

[The information follows:]

EXTRANEOUS EQUIPMENT

On November 25, 1986, the NSC security officer was directed by the special counsel to assemble all of Lieutenant Colonel North's office equipment and to keep it in a secured storage area, until otherwise notified. This occurred before my arrival at the NSC; the NSC administrative officer, Mary Dix, was not informed of this action. The combination to the vault in which the equipment was stored is held by the NSC security officer. No other person has access to the vault.

On March 13, 1987, a memorandum directing that all extraneous equipment be reported to the NSC administrative officer was issued by the executive secretary. The NSC staff was clearly directed in that memorandum to report all extraneous equipment in accordance with established property management procedures.

USE OF DETAILEES

Senator DECONCINI. Let me go to some budget matters, Mr. Green. On the surface, the National Security Council budget is only about $5 million with 61 permanent full-time positions, but according to an analysis of the National Security Council's use of detailees, the amount of staff help available to the Council is really closer to 185 with a budget value of close to $10 million.

Your report to the subcommittee on detailees from other agencies to the NSC shows 124 nonreimbursable detailees were provided to the NSC last year with a budget value of $4.3 million. You reimbursed certain agencies $194,000 for the use of six support detailees.

Why does a relatively small policy office in the Executive Office of the President need nearly 185 people in a given year to provide advice on national security matters?

Mr. GREEN. Let me start by saying that that figure includes 28 people in the situation room who are shift workers, 24 hours, 7 days a week. It also includes 31 people—which will soon be down to 28 people—in the crisis management center, and it does—as you stated—include 65 nonreimbursable detailees and 6 reimbursable detailees.

I think that the reason for the size, other than the fact we run a 24-hour operation in some of the NSC, can be characterized this way. The NSC functions in a substantive way with two shifts. The day begins before 7 o'clock in the morning and ends for many after 9, sometimes as late as midnight. Also, to ensure the continuity of Presidential programs across a broad range of activities, to ensure that the coordination and the integration of Presidential policies are accommodated, the NSC needs broad regional and specific expertise.

I think that if you look at the 10 regional and functional areas the NSC is organized into, you will agree that we are not overstaffed. For example, we have two professionals who handle all of Africa. We have four professionals who handle all of Europe, Canada, and the Soviet Union. We have three professionals who handle all of Central America, just as examples.

When you get into the specific functional areas, we are talking about expertise in such areas as strategic defense, NATO affairs, telecommunications, intelligence, counterintelligence, economic policy, not to mention a very much increased workload over the past year or two in space, technology transfer, and trade issues.

Historically if you look at the NSC, size has varied over the last decade depending on the style of the President, but basically we have run in the neighborhood of 50 to 55 professionals. That does not, of course, include the crisis management center which was established early in this administration, or the situation room, which frequently is not counted, but which is, as I mentioned, a 24-hour a day shift operation.

Senator DECONCINI. Going back to the detailees, what troubles me is that I just do not understand the management here, and maybe you are still working on it. You have 64 detailees there, and the NSC shows that 14 are from the CIA, 30 from DOD, and 20 from State. All three of these agencies are statutory members and advisors to the NSC.

It would seem to me to be very difficult—and maybe impossible—to control these assigned people. Why can you not operate with designated liaison people from these agencies to your office in case you need advice? And what have you done—well, answer that question first, if you can.

Mr. GREEN. Senator, the tradition of detailees to the NSC is a very long one. In fact, the NSC began with detailees. The National Security Act of 1947 does not specify how the NSC will be staffed other than to say the Executive Secretary will staff it.

If you look at the organization of the NSC itself, the corporate body, those individuals—specifically, the Secretary of State and the Secretary of Defense—and the statutory advisors—the Director of Central Intelligence, the Chairman of the Joint Chiefs of Staff, Director of USIA and the Director of ACDA—really wear two hats, one as an agency head, and one—as advisors to the President.

It is, I think, incumbent upon them to support the NSC function. The agencies and departments seek to put people in the NSC so that the positions and interests of those departments are articulated. They also provide expertise to the NSC that is invaluable. Detailees also, I think, in a sense depoliticize the NSC in that they provide continuity.

Senator DECONCINI. You mean continuity from the standpoint that those people are there and that you know them and you have direct control over them?

Mr. GREEN. Absolutely.

Senator DECONCINI. And I presume you have thought—or Mr. Carlucci has thought about just having a designee or one or two from each agency and then when you want information, send them off to get it. It just troubles me that you have got such a bureaucracy, and a couple of things come to my mind. No. 1, how do you control them all? No. 2, do you select the detailee or does the agency select them? And if you select them, how do you know which colonel at Defense is

the one you want unless you happen to have dealt with him before? And if they are sent over to you, do you get total control over them? And loyalty?

Mr. GREEN. There is always that chance, of course, that they continue to wear a blue suit or a green suit or whatever. But Mr. Carlucci has made it very clear, both to the people who have remained with the NSC and to the new people coming in, that they work for him and the President—not for the Secretary of Defense or the Secretary of State, et cetera.

Senator DECONCINI. Do you think that works, Mr. Green, even though when someone else is paying for them, nonreimbursable, and they are there to put in their time and their promotion is based on somebody else over at DOD, at State, and not so much about what you think of them?

Mr. GREEN. Well, their promotions are certainly affected by someone in the Army or the Navy, but their efficiency reports which are the primary input to service promotion boards are written by their boss at the NSC.

Senator DECONCINI. They are written by your people?

Mr. GREEN. Yes, sir; absolutely. Now, to get to your question on whether we select or we are force-fed detailees, the process is that when somebody is ready to leave or we determine that we need a particular expertise, we ask the appropriate agency for nominations. They will nominate usually three or four different people.

The senior director affected interviews those people. I, as the executive secretary with the hiring authority for the NSC, interview them also. Hopefully we make the right choice.

Senator DECONCINI. And how long do they serve?

Mr. GREEN. The average for a given cross section of detailees we looked at was 24.8 months.

Senator DECONCINI. How long had Lieutenant Colonel North been there? Do you know?

Mr. GREEN. Five years.

Senator DECONCINI. Five years?

Mr. GREEN. Too long!

Senator DECONCINI. So that would be exceptional?

Mr. GREEN. Yes; and as the Tower Board suggested, they felt that detailees from the different departments were appropriate but should be rotated and anything in excess of 4 years would be excessive.

Senator DECONCINI. Was North a detailee?

Mr. GREEN. Yes; he was a detailee from the Department of the Navy—actually from the Marine Corps.

Senator DECONCINI. I would think that would just scare the living daylights out of me, based on what we know has happened there, to have detailees with those propensities and leeways. I realize you have put some structural prohibitions in there now, but detailees, in other words, are the equivalent of a staff person from the standpoint of being permitted to do whatever the NSC is involved in. Is that a fair statement?

Mr. GREEN. I think that the propensity for a detailee to do things like that is certainly based more on their own makeup and personality than the fact they are a detailee or an employee. Employees are subject to be terminated—as we have terminated some—just as are detailees.

Senator DECONCINI. You can send a detailee back any time?

Mr. GREEN. Yes, sir; we can.

Senator DECONCINI. But you cannot terminate them from employment from the Government?

Mr. GREEN. No; we can send a detailee back to his or her parent organization.

Senator DECONCINI. Do your records show or was Lieutenant Colonel North—when he was hired or brought on as a detailee—suggested with three or four people, as you have indicated was the process?

Mr. GREEN. I am not sure whether we could reconstruct that or not.

Senator DECONCINI. Would you take a look and see? I would like to know how he got there, who suggested him, when he was suggested, had he been suggested before, and who chose him for that position.

Mr. GREEN. Yes, sir; we will look into that.

Senator DECONCINI. I am interested in seeing some improvement. I am convinced you are dedicated to changing that. If you could lay out how it worked before Mr. Carlucci took over, particularly as it relates to Mr. North, but also others, and now how it works, which I think you pretty well explained, I would appreciate receiving it.

Mr. GREEN. Yes, sir; certainly.

[The information follows:]

The routine practice—both present and past—is to request nominations from the most appropriate agency to fill an upcoming vacancy. For example, a requirement to fill a position in one of the regional directorates would most likely be directed to Department of State; requirements in the defense group would be solicited from Department of Defense. The department/agency will normally submit two to four nominees. After interview at directorate level and by the executive secretary, selection is made. If all candidates are rejected, the nomination process is repeated.

In certain instances, a senior director, anticipating a vacancy, may suggest a specific replacement candidate he/she or others in the NSC have known from previous association. In those instances, the specific candidate is requested from the parent agency but still goes through the interview process prior to acceptance.

In the case of Lieutenant Colonel North, he was one of three military officers detailed to the NSC staff in 1981 to help with interagency efforts in support of the AWACS sale to Saudi Arabia. He had been recommended for this special project by the Secretary of the Navy. He and the other two officers were interviewed and selected by then National Security Advisor Richard Allen. After the AWACS project was completed a decision was made to retain the three officers on the NSC staff. Lieutenant Colonel—then Major—North was initially assigned to the Defense Policy Directorate, however later was shifted to the Political/Military Affairs Directorate where he remained until he departed in November 1986.

USE OF CONSULTANTS

Senator DECONCINI. Let me go into the area of consultants. The same Tower report shows that as of January 17, 1987, you had spent more than $776,000 for consultant services for the National Security Council. Such celebrities as Henry Kissinger, Robert McFarlane, David Packard are shown as consultants in the report.

Can you tell us what the NSC uses these consultants for and why you need them on top of the detailees and on top of your permanent staff at the NSC?

Mr. GREEN. The amount that we spend on individual consultants, like those you mentioned, runs, as I recall, about $50,000 a year.

Senator DECONCINI. Excuse me. I am sorry. I did not hear that.

Mr. GREEN. The amount of money that the NSC spends per year on the individual consultants like you mentioned, some of which are with compensation, some of which are without compensation, runs about $50,000 a year.

We are reviewing—and again, I am referring to individual consultants now—we are reviewing the entire roster of individual consultants and have tentatively agreed in-house to drop eight of those consultants, some six of the without-compensation consultants, and two of the with-compensation consultants. That has not yet been run by Mr. Carlucci, but that is our plan.

As far as the larger costs of consultants you mentioned, I will have to get back to you on that.

Senator DECONCINI. I wish you would, because the information I have here shows, for instance, Henry Kissinger was paid $65,520 as a consultant in 1986, as of January, actually, as of January 17, 1987. And it lists here a number of people—Roy Godson, $58,500; William Perry, $52,000; and Jan Nowak, $34,060, for a total of $776,100.

Then it lists a number of other consultants here who apparently received no pay, such as James Ling, Robert McFarlane, David Miller, and David Packard. It is very confusing, Mr. Green, as to what is going on with the consultant fees and why some are paid and why some are not.

Ms. DIX. Sir, I do not know which report you are looking at but when the transition team came in place——

Senator DECONCINI. It is the one you provided to us on March 5.

Ms. DIX. Yes; when the transition team came in place they took some of the NSC staffers who were to be replaced and converted them to full-time paid consultants for varying lengths of time. We really did not use anything close to that amount you mentioned for consultants during the year at all.

That is their salary—the potential salary—that they could earn in a whole year if they were a paid consultant for a whole year.

Senator DECONCINI. OK. Are you telling me then that Henry Kissinger did not get paid $65,520?

Ms. DIX. We paid him nothing. That is what he would have earned had he worked for the full year, sir. He did not earn anything.

Senator DECONCINI. How do you pay them then? On the basis of daily per diem?

Ms. DIX. Daily, yes.

Senator DECONCINI. Taking $65,520, for instance, and dividing 365 days, or whatever the workdays are, and that is what you would pay him?

Ms. DIX. Yes.

Senator DECONCINI. What is the policy on this, Mr. Green? Is there a policy on consultants as to how you arrive at paying Rodney McDaniel $67,600 and Mr. Kissinger $65,520? I will bet he will be upset when he hears that somebody got a little bit more than he did. And then, Jan Nowak got $34,060. Can you provide that for us? Maybe you do not have that right here. I would like to know what your plans are and how you handle the consultants, if you will please.

Mr. GREEN. We can provide that for you, sir.

[The information follows:]

THE USE OF CONSULTANTS

The NSC has traditionally used consultants intermittently, on an as need basis. They are paid only for those days actually worked. The rate of pay is based on their qualifications in relation to our particular need at the time. The NSC staff members who were converted to full-time consultants during the transition were paid on a scale equivalent to their salaries at the time of the conversion.

The following totals were provided by our payroll office for actual amounts paid to NSC consultants:

NSC consultant compensation

Fiscal year:	
1985	$56,334.10
1986	41,873.38
1987 (as of pay period ending February 28, 1987)	38,236.96

The Executive order that prevents the NSC staff from taking part in covert actions will also be enforced where consultants are concerned.

RECORD KEEPING PROCEDURES

Senator DECONCINI. The Commission said that in regards to adequate record keeping, let me quote:

> The National Security Advisor must also ensure that adequate records are kept of NSC consultations and Presidential decisions. This is essential to avoid confusion among Presidential advisors and departmental staff about what was actually decided and what is wanted. Those records are also essential to conducting a periodic review of a policy or initiative, and to learn from the past.

Your opening statement indicates better record keeping. Can you give us some particulars as to the procedures that you are going to install, or have been installed, to satisfy this rather critical observation of the Tower Commission?

Mr. GREEN. Yes, sir; first of all, as I stated in response to one of the other questions—or partial response to one of the other questions—the procedures used by the executive secretary in controlling and handling paperwork have been revised and reenforced. Where before there were occasions when individual staff officers were able to walk papers directly to the National Security Advisor, that process has been stopped.

Even when that paper involves the most sensitive information, we now have procedures established within the Office of the Executive Secretary to handle those papers.

Senator DECONCINI. Where are those kept, those most sensitive? Is there a central area?

Mr. GREEN. Yes, sir; there is.

Senator DECONCINI. Do the people who write them keep a copy of them?

Mr. GREEN. Yes, sir; they do.

Senator DECONCINI. What security do you have? For each staff person who writes such papers, do they have a secure place as well as a central place?

Mr. GREEN. There is a central repository of all the original copies, and the most sensitive ones are hand-carried around in sealed envelopes, and there is a list on the outside of each envelope as to specifically who is permitted to see that document.

Senator DECONCINI. And the person who wrote the document, what does he or she do with his or her copy, or is there just the original?

Mr. GREEN. Just the original.

Senator DECONCINI. Just the one that is circulated?

Mr. GREEN. Yes.

Senator DECONCINI. So, if I am circulating something to you of a highly sensitive nature, I make only one copy and that is the one I would have delivered to you?

Mr. GREEN. Well, no. Let me back up. There are more copies made. The originating officer will keep the duplicate in his file and there is a central repository for an original copy.

Senator DECONCINI. There is?

Mr. GREEN. The original will have whatever decision has been reached by the National Security Advisor or the President as appropriate.

Senator DECONCINI. And the other copies are then deposited in a central area?

Mr. GREEN. That is just his working paper.

Senator DECONCINI. So nobody keeps their copy of such sensitive recommendations?

Mr. GREEN. Absolutely not.

Senator DECONCINI. And if somebody wanted to go see them they would have to go through this process?

Mr. GREEN. We have a process whereby we can call up on our computers—using the title of the paper with no narrative—we can call up and find out who the action officer was and go to that piece of paper and determine what the decision was.

Senator DECONCINI. And all of this procedure has been set down in writing for staff and detailees?

Mr. GREEN. Yes, sir; it has.

[The information follows:]

DOCUMENT MANAGEMENT

The procedure I oultined for moving the very sensitive items to the National Security Advisor is correct, the only point that needs clarification is the question of how many copies are made of an item and how they are handled.

There is one original. The number of copies may vary, but the standard is one original plus two copies. The original and two copies are submitted to the system control officer who forwards the original and one copy to the executive secretary. A suspense copy is kept by the system control officer. The originator keeps a copy.

When Mr. Carlucci or the President takes action, the original is sent back to the executive secretary who forwards it to the system control officer who notifies the staff of decision/action taken. At that point, the suspense copies are destroyed.

It should also be noted that all containers for classified records in the National Security Council are level VI, codeword approved.

COVERT ACTION DECISIONS

Senator DECONCINI. In screening a report to this subcommittee staff, Mr. Mills, dated March 5, 1987, a copy of your draft testimony said, and I quote:

An Under Secretaries Committee, quote, known as a policy review group [PRG] and chaired by Mr. Carlucci's deputy, Colin Powell, oversees the policy formulation and implementation process, including crisis management and execution of covert action decisions by appropriate Government agencies.

In your formally prepared statement for today, there is no mention of this Under Secretaries Committee or policy review group. Could you tell us about the Under Secretaries Committee, what it will do, and specifically tell us what is its role in overseeing the execution of covert action decisions by appropriate Government agencies?

Mr. GREEN. That policy review group—let me back up a moment—NSDD–2, which was the NSDD that established for this administration the interagency procedures in dealing with national security affairs is currently being reviewed and revised. As part of that revision, General Powell's group will assume many of the responsibilities which have up to now been exercised by as many as 25 different senior interagency groups and 50 or 55 different interagency groups.

They—the PRG—will also assume the role of what was heretofore known as the crisis preplanning group. So what we are attempting to do is review all of the different groups that used to meet, eliminate those which are moribund, and get control within the NSC via General Powell's group of the majority of them, without taking prerogatives away from the Secretary of Defense and the Secretary of State, who have natural interests in their respective areas.

One of the functions that the policy review group is currently performing is a review of all the covert action findings. They will review those for their applicability and for the manner in which they are carried out.

They also will have meetings on any potential crisis prior to the issue being brought before the National Security Council, so it is a senior-level working group at a level just below the NSC. That is the Under Secretaries group, and the Under Secretaries participate in that with General Powell.

Senator DECONCINI. In that review of all covert activities, is that underway now, or is that completed?

Mr. GREEN. It is underway now. They have had their first one or two meetings. I do not now how many it is going to take them. It will not take them many more to review all of the findings.

Senator DECONCINI. Just for purposes of continuity, will you advise us when that is finished?

Mr. GREEN. Yes, sir.

Senator DECONCINI. Just so this Senator will know, and also because I serve on the Intelligence Committee, when will it be appropriate to ask Mr. Carlucci if he knows about X or Y? I do not want to jump the gun on him, but I think it would be helpful to know when that review is finished.

Mr. GREEN. Yes, sir.

Senator DECONCINI. I presume that is going to go to the National Security Advisor for his signoff, approval, or review?

Mr. GREEN. Absolutely, yes, sir.

Senator DECONCINI. Another criticism of the Tower Commission was that the White House Chief of Staff sought to extend his personal control over the National Security Advisor. The Commission said that he was personally active in National Security Affairs and attended almost all of the relevant meetings regarding the Iran initiative.

What specific steps has Mr. Carlucci and his staff taken to make sure that he is properly insulated from the White House Chief of Staff, who may try to influence the objectivity of the NSC advice to the President? Is there really a way to structure this relationship that will be the maximum for the President?

Mr. GREEN. I would say that Mr. Carlucci and Senator Baker have a very agreeable understanding of what their respective roles are. However, the Chief of Staff does, and rightly should, still attend most of the NSC meetings, as they have in the past.

I do feel—though I cannot really speak for the current style of the present Chief of Staff—but I think he has probably got a fairly full plate and respects Mr. Carlucci's capabilities and Mr. Carlucci will be——

Senator DECONCINI. I understand that and I have great confidence in both Mr. Carlucci and Mr. Baker, but chances are they are not going to be there for too, too long. Is there any structure or policy written that might be left over for the next Chief of Staff and the next National Security Advisor that would be helpful to lay that out?

Mr. GREEN. There is nothing that has been codified as to what the duties and responsibilities——

Senator DECONCINI. Will there be?

Mr. GREEN. I do not know, sir. I think that, to a great extent, depends on the personality of the President and the role that he wants his Chief of Staff and his National Security Advisor to play, which of course, are different with every President.

Senator DECONCINI. Do you agree that there should be some distinct policy or structure to attempt to separate these in the event one or the other attempts to have greater influence or to avoid the other?

Mr. GREEN. I very frankly do not think that is something you could put down in writing. I think it is too personality dependent.

Senator DECONCINI. You do?

Mr. GREEN. Yes, sir.

Senator DECONCINI. You do not think it is a problem? You do not think there was a problem there between Poindexter and Regan?

Mr. GREEN. I think there probably was a problem. I do not see a problem now.

Senator DECONCINI. Thank you. Let me turn to one last question. We will submit several for the record.

Conspicuously absent from your prepared statement of reforms to correct the problem of the old NSC is any plan for ensuring that overzealous outside ideological private organizations, such as the ones involved in the Contra Aid affair, are not able to influence or even penetrate the National Security Council system.

In other words, there is nothing in your testimony that addresses the operations, such as Project Democracy, and makes sure that such allegedly illegal networks of secret bank accounts and other questionable activities do not come under the auspices of the Council or national security policy.

What steps has Mr. Carlucci taken to make sure that such outside groups cannot make inroads into the Council?

Mr. GREEN. Sir, I think that that is well covered in the directive—which I can provide you—which strictly prohibits NSC staff from becoming involved in operational activities, and that is certainly operational.

Senator DECONCINI. That is operational and that is the national security—yes, that was signed by the President, you are making reference to?

Mr. GREEN. That was signed by Mr. Carlucci to the NSC staff.

Senator DECONCINI. To the NSC staff?

Mr. GREEN. Yes, sir.

Senator DECONCINI. Approved by the President?

Mr. GREEN. Yes, sir.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. OK, Mr. Green. Thank you very much. That is very helpful. We appreciate your coming forward and giving us this clear understanding and better feeling of what you are in the process of pulling together there and I wish you would please extend my thanks and appreciation to Mr. Carlucci for your availability. We will have other written questions, particularly on this consultant issue. I would like to understand that a little better, but we will submit the balance of the questions.

Mr. GREEN. Thank you for your time, sir.

Senator DECONCINI. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Question. Can you tell us in some detail how the NSC was organized before Mr. Carlucci took over; compare the new "streamlined" system with the old; and give us a breakdown of how the 61 permanent staff are organized? The changes you address in your statement seem rather fundamental and basic and not terribly innovative.

Answer. The NSC, quite simply, must be organized to serve the President by providing sound and consistent advice and translating the President's objectives into operating policies. The overarching task of the NSC is to assure quality control in:

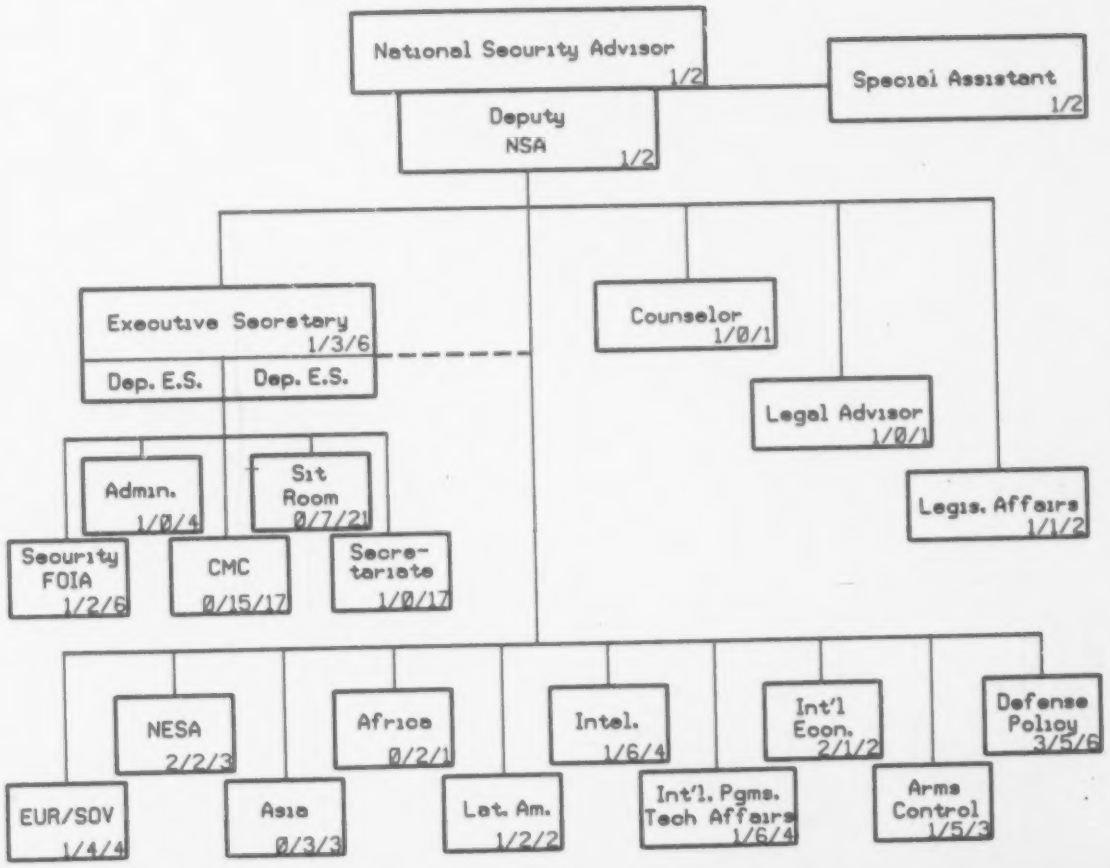
- o Staffing out Presidential options, so that decisions are made in a timely manner with the best possible options formulated by all relevant Agencies;
- o Monitoring implementation of the President's policies to ensure compliance and cohesion by all Agencies; and
- o Preparing for crisis management.

The present NSC has a more tightly focused NSC staff structure, one which concentrates on what is essential for it to do -- namely, the three points above -- rather than what other Agencies are best equipped to do -- namely, covert operations and routine diplomatic activities.

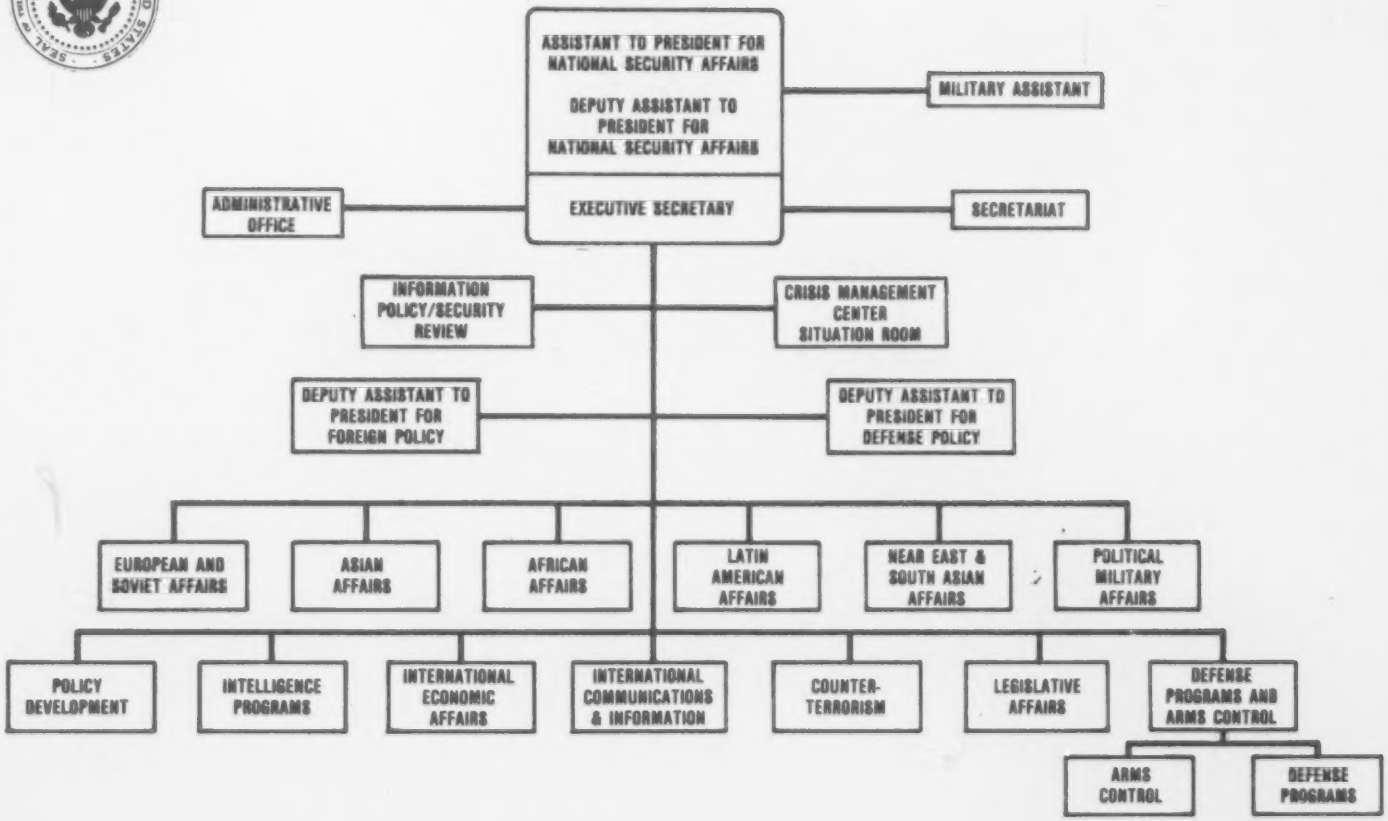
Attached are organizational charts depicting both present NSC structure as well as that which was in place prior to Mr. Carlucci assuming the position of Assistant to the President for National Security Affairs. Staffing levels for the current organization are depicted as: professional payroll/professional detailee/support personnel.

Also attached are several memoranda to the NSC staff which are in effect and streamline and facilitate control of NSC processes.

Present Organization



NSC STAFF


ASSISTANT TO PRESIDENT FOR NATIONAL SECURITY AFFAIRS
DEPUTY ASSISTANT TO PRESIDENT FOR NATIONAL SECURITY AFFAIRS
MILITARY ASSISTANT
ADMINISTRATIVE OFFICE
EXECUTIVE SECRETARY
SECRETARIAT
INFORMATION POLICY/SECURITY REVIEW
CRISIS MANAGEMENT CENTER SITUATION ROOM
DEPUTY ASSISTANT TO PRESIDENT FOR FOREIGN POLICY
DEPUTY ASSISTANT TO PRESIDENT FOR DEFENSE POLICY
EUROPEAN AND SOVIET AFFAIRS
ASIAN AFFAIRS
AFRICAN AFFAIRS
LATIN AMERICAN AFFAIRS
NEAR EAST & SOUTH ASIAN AFFAIRS
POLITICAL MILITARY AFFAIRS
POLICY DEVELOPMENT
INTELLIGENCE PROGRAMS
INTERNATIONAL ECONOMIC AFFAIRS
INTERNATIONAL COMMUNICATIONS & INFORMATION
COUNTER-TERRORISM
LEGISLATIVE AFFAIRS
DEFENSE PROGRAMS AND ARMS CONTROL
ARMS CONTROL
DEFENSE PROGRAMS

THE WHITE HOUSE 0155

WASHINGTON

January 15, 1987

MEMORANDUM FOR NSC STAFF

FROM: FRANK C. CARLUCCI

SUBJECT: Document Control Procedures

To follow up my remarks to you at the January 2 staff meeting, I would like to emphasize that the orderly flow of action and information documents based upon effective staff and interagency coordination is critical to a complete and objective presentation of views.

The Office of the Executive Secretary (Grant Green and Bob Pearson) is the sole channel for all material addressed to me or to Colin Powell. All papers, regardless of sensitivity or classification, will come through the Executive Secretary. Appropriate measures are being taken to ensure the proper handling of such documents. A special "dummy" system for extremely sensitive items has been established and will be outlined in a separate memo to you from Grant Green.

The following procedures are to be instituted, effective immediately:

I. The Executive Secretary will continue to task papers for production by the staff. Colin and I have asked our front office staff to pass taskings to you through the Executive Secretary.

II. All material is to be submitted and logged through the Executive Secretary. You are requested not to bring documents directly to the front office. If an advance copy is forwarded, please advise Grant or Bob. All "eyes only" NSC documents for me or Colin are to be delivered to Grant Green or Bob Pearson.

III. I want to have the full and frank views of all staff members on matters of importance to the President. Therefore, any staff officer may forward his or her views on a particular subject in an information memo through the Senior Director and the Executive Secretary.

Ensuring the highest quality product for the President requires discipline in our document management process. I have tasked Grant and his team to ensure that decision documents reflect a frank, open and full presentation of policy options and to ensure that such information is shared among all those with policy responsibility. I look to each of you to cooperate in this process.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 15, 1987

MEMORANDUM FOR NSC STAFF MEMBERS

FROM: GRANT S. GREEN

SUBJECT: Document Control Procedures

In an effort to improve the orderly flow of action and information items to and from the President, the Assistant to the President for National Security Affairs, the NSC staff and the departments and agencies, and to ensure the necessary accountability, all papers will be logged and their progress tracked through the NSC Secretariat's document control system.

As a first step, departmental couriers are being instructed to deliver all material previously delivered to individual NSC staff members in OEOB to the Secretariat in Room 381 OEOB. There it will be handled by properly trained and cleared personnel in accordance with appropriate security regulations and forwarded promptly to the appropriate staff member (s).

The procedure for delivery of material to the White House West Wing Ground Floor remains unchanged.

Sensitive intelligence material will continue to be delivered to the Secretariat Coordinator in Room 300 OEOB.

All papers to and from Mr. Carlucci will come through my office. If time pressures do not permit adherence to normal procedures, handcarry the package to my office for immediate delivery to the front office. The copies will be used to complete the control process.

A special category of "X" items has been established to handle those items of particular sensitivity which are not handled in System IV. The logging and control procedures will be based on a dummy sheet prepared by staff officers. A detailed procedure for handling "X" items is attached. Use of the "X" designator will be monitored to prevent its abuse.

Attachment
a/s

SAMPLE

NSC SECRETARIAT DUMMY PROFILE

Prepared by: Smith

Log. No. 1234.X

Date Logged 1-5-87

Ref. Nos. State 4567

DOD 8910

TO: Carlucci

DOC. Date 1-1-87

FROM: SecState

CLASS. S/Codeword

SUBJECT: Mali (or "Trade Restrictions" if subject is functional rather than geographic)

ACTION: Memo for President's signature

BY: Smith

INFO ONLY: ____ (Check if info only, no action required)

COPIES: (Names of other staff officers to whom copies are sent by action officer)

DATE	TIME	ACTION
1-6		Memo to FC
1-7		Returned to Smith for re-do
1-8		Revision to FC
1-9		To President
1-10		President signed; dispatched to State; cc DOD

FILE LOC: PA

X ITEM PROCEDURES

When a staff officer decides that additional protection is required beyond the standard security classifications, the following procedures will be followed:

1. The officer's secretary will call the Secretariat (ext. 6534) and ask for an X number. If the item has already been logged and numbered, he/she will ask that the number be made an X number and that any copies retained by NSC/S be returned to him or her.

2. NSC/S will assign the next log number, followed by an X, and await further information on the item.

3. The X number will be typed on the item in the upper right-hand corner and a dummy sheet prepared in accordance with the sample attached giving only such information as is required for future identification.

4. The dummy sheet will be sent to NSC/S as its record of the item. No copies of the document itself will pass through NSC/S.

5. The original and all copies of the document will be handcarried to the Executive Secretary.

6. NSC/S will be notified as the item moves through the offices: e.g., #1234X has been returned to staff officer for revision; #1234X has been sent to the President; President has signed #1234X, etc. This movement will be recorded on the dummy sheet, including the file location when action on the item has been completed.

0155

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 15, 1987

MEMORANDUM FOR NICHOLAS PLATT
Executive Secretary
Department of State

WILLIAM V. VITALE
Executive Secretary
Department of Energy

ROBERT B. ZOELLICK
Executive Secretary
Department of Treasury

H. LAWRENCE SANDALL
Executive Secretary
Central Intelligence Agency

COL. JAMES F. LEMON
Executive Secretary
Department of Defense

JAMES GEER
Assistant Director of the
Intelligence Division
Federal Bureau of Investigation

JOHN N. RICHARDSON
Assistant to the Attorney General
and Chief of Staff
Department of Justice

SUBJECT: Delivery of Classified Material to NSC Staff

Please instruct all couriers henceforth to deliver to Room 381, Old Executive Office Building, material previously delivered directly to NSC staff officers. This includes compartmented material except for sensitive intelligence items which should continue to be delivered to Room 300 OEOB. Current delivery procedures for material to the White House West Wing Ground Floor desk remain unchanged.

All material will be handled by properly trained and cleared NSC personnel in accordance with appropriate security regulations and transmitted by hand to the intended recipient. Special arrangements have been made for extremely sensitive items.

We appreciate your cooperation in this effort. Please call me if you have any questions.

Robert Earl

Grant S. Green, Jr.
Executive Secretary

THE WHITE HOUSE

WASHINGTON

January 12, 1987

INFORMATION

MEMORANDUM FOR THE NSC STAFF

FROM: FRANK C. CARLUCCI

SUBJECT: Covert Action Procedures

There are two authorizing documents which provide guidelines for the conduct of covert operations. Executive Order 12333 (Section 1.2) of December 4, 1981 states that the National Security Council shall act as the highest Executive Branch entity to provide review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities and attendant policies and programs and NSDD 159.

The Executive Order further provides that no entity other than the CIA or the Armed Forces of the United States (under clearly defined circumstances) may conduct special activities unless the President specifically determines otherwise. Special activities, under the definitions described by the Executive Order, are Covert Actions.

In order to ensure that the NSC's proper role is limited to supervision and guidance, and does not extend to the conduct of special activities, the following guidelines are promulgated:

> In accordance with E.O. 12333, the NSC shall provide review of, guidance for, and direction of the conduct of special activities. The NSC and its staff shall exercise its role with respect to the conduct of special activities in accordance with established executive procedures. The staff of the NSC shall not itself undertake special activities.

The Senior Director of Intelligence Programs is the principal action officer for the NSC with respect to special activities.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

1338

February 26, 1987

MEMORANDUM FOR THE NSC STAFF

FROM: GRANT S. GREEN, ~~JR.~~

SUBJECT: Correspondence for FCC & CLP

Effective immediately all correspondence to Mr. Carlucci and LTG Powell will be signed only by the appropriate Senior Director. In those instances where a Senior Director is not available (leave, travel, etc.), papers will be forwarded by the designated acting office head. "Thru-to" format is not acceptable, however, a "prepared by" line on the bottom of each memo should be included.

The Secretariat will continue to staff actions to individual staff officers within each directorate to ensure that actions reach the drafting officer as soon as possible.

INTELLIGENCE OVERSIGHT BOARD
AND FOREIGN INTELLIGENCE ADVISORY BOARD

Question. Could you tell us how each of these Boards operate; how much NSC staff is assigned to each; and how much of your total budget request will go for each.

Answer. The President's Intelligence Boards are separate entities that serve the President directly.

The President's Intelligence Oversight Board (PIOB) was established in 1981 by Executive Order. Its three board members are appointed by the President. PIOB reviews the intelligence community activities focusing on the lawfulness of intelligence activities.

The President's Foreign Intelligence Advisory Board (PFIAB) was also established in 1981 by Executive Order. Its 14 board members review the performance of all government agencies engaged in the collection, evaluation or production of intelligence.

The total budget request for both Boards in FY88 is $471,000; $89,000 - PIOB; $382,000 - PFIAB.

BIENNIAL BUDGET CYCLE

The responses to the Biennial Budget questions will be provided as a consolidated response by the Executive Office of the President.

EXECUTIVE OFFICE OF THE PRESIDENT

STATEMENT OF JOHNATHAN S. MILLER, DEPUTY ASSISTANT TO THE PRESIDENT FOR MANAGEMENT AND ADMINISTRATION, DIRECTOR, OFFICE OF ADMINISTRATION

ACCOMPANIED BY RONNIE R. RASMUSSEN, ACTING DIRECTOR, FINANCIAL MANAGEMENT DIVISION; BUDGET OFFICER

PREPARED STATEMENTS

Senator DECONCINI. Our next witness will be Mr. Johnathan Miller, Deputy Assistant to the President for Management and Administration and Director of the Office of Administration.

He will be accompanied by Mr. Ron Rasmussen, Acting Director of Financial Management. Gentlemen, through no fault of yours we are running short on time, so if you would please summarize your statements, they will appear in the record in full, and we may proceed.

[The statements follow:]

STATEMENT OF JOHNATHAN S. MILLER

Compensation of the President

The Fiscal Year 1988 budget request for Compensation of the President is $250,000. This includes $200,000 for the direct salary of the President as authorized by 3 U.S.C. 102. This amount has remained constant since 1969. In addition, there is a $50,000 expense account for official use by the President; any unused portions revert to the Treasury. This expense account is not considered as taxable to the President.

White House Office

The mission of the White House Office is to provide staff assistance and administrative support to the President of the United States.

The Fiscal Year 1988 budget request totals $27,493,000 and represents a $2,497,000 increase over our current proposed 1987 budget request of $24,996,000. These funds will provide for 323 full-time permanent positions, which includes the Special Assistant to the President for Agricultural and Trade Policy mandated by the Congress in the 1985 Farm Bill as amended.

Concurrently, two supplemental appropriations for Fiscal Year 1987 are requested. The government-wide 3 percent pay increase which took effect in January will require an additional $172,000, which is only half of the actual cost. The second supplemental is for the new Federal Employees' Retirement System which will cost an estimated $374,000. At the same time, the Executive Level increases which were derived from the recommendations of the Quadrennial Commission on Executive, Legislative, and Judicial Salaries will cost us an estimated $195,000 in FY 1987, for which we are not requesting any supplemental appropriations. We believe that we can absorb these costs through savings and other management improvements.

The increase of $2,497,000 for 1988 is due to several major factors. In the pay and benefits area, we are requesting an additional $801,000 for annualization of the cost of the two 1987 supplemental requests: $273,000 for the 3 percent pay raise, and $528,000 for the retirement system. The only other increase in our budget request for 1988 is $1,696,000 for higher office space rental rates paid to the General Services Administration. There will be no increase in the actual space used by the White House Office. All of our other costs are expected to remain constant in 1988.

We have tried to keep this budget to a minimum, including in it only costs which are absolutely essential for the continuation of the White House Office's important functions.

In closing, let me say that I am grateful to the Committee for your past understanding and look forward to continuing support for our future operation. I would be happy to answer your questions about the White House Office.

Office of Administration

The Office of Administration (OA) was created to provide common administrative support and services to the White House and agencies of the Executive Office of the President. The concept of centralized administrative support is proving beneficial as we enhance our level of service to more agencies with less resources. For example, in FY 1987 the OA began providing services to three new responsibilities which include the Official Residence of the Vice President, the Commission on the Bicentennial of the United States Constitution, and the United States Institute of Peace.

As submitted, the OA is requesting an FY 1988 appropriation of $16,640,000 which represents a $669,000 increase over the current proposed FY 1987 budget of $15,971,000. This uncontrollable increase is comprised of two major factors. First, $269,000 is needed to meet the annualized cost of the 3 percent January 1987 pay increase and the annualized cost of the new Federal Employees' Retirement System commonly known as FERS. The second factor is an increase in the cost of space charged by GSA for the Old and New Executive Office Buildings. Although the GSA rental charge will cost an additional $600,000, the OA will absorb $200,000 of the increase through various management and cost-cutting initiatives.

With our FY 1988 request, we are also requesting two supplemental appropriations for FY 1987. These include $57,000 for one-half of the cost of the January 1987 3 percent pay raise and $214,000 for the increased cost to OA for the new government-wide retirement system.

Emphasis on development of our ADP capabilities allows us to request no growth in the budget. To keep pace with increased demands of Executive Office of the President users, the OA in FY 1988 will upgrade two mainframe computers allowing greater speed and processing capabilities, purchase more productive software compatible with current systems, and continue to replace equipment too expensive to maintain or which is no longer beneficial. One example is the purchase of a new electronic mail and messenger system. This system provides each user with greater capabilities, enhances document security, and allows each agency the possibility of additional users since the new system is less expensive.

Commensurate with these added capabilities, I would like to notify the Committee that the name of our Automated Systems Division has been changed to the Information and Resource Management Division. We feel this change is necessary as the responsibilities of the Division grow to meet increased Executive Office of the President demands.

The OA is anticipating $4,008,000 in reimbursements. These funds are a combination of specialized automated systems development work performed on behalf of Executive Office of the President agencies and other reimbursable services provided in direct support of temporary agencies or commissions. This estimate is slightly less than anticipated for FY 1987.

In part, these funds will also provide for 168 full-time permanent positions of which 29 are provided on a reimbursable basis.

In closing, I would like to thank this Committee for your support in the past. I hope that we can continue to work together so that the Office of Administration can enhance the services provided to the Executive Branch with need for little additional resources.

Special Assistance to the President

The appropriation request for the Special Assistance to the President account will enable the Vice President to provide assistance to the Chief Executive which includes directed and special presidentially-assigned functions. In addition, the Vice President through Cabinet membership and White House contact is informed on a continual basis regarding Presidential responsibilities and in the President's absence serves as Chairman of the Cabinet.

In addition to his current presidential assignments, the Vice President serves as an adviser to the President on matters of national importance and assists in ceremonial functions and in the conduct of international affairs.

As submitted, the FY 1988 appropriation request for the Special Assistance to the President account is $2,250,000 representing a $343,000 increase over our current proposed FY 1987 funding level of $1,907,000. This request will continue to provide for a staff of 24 full-time permanent positions, the same level as authorized for FY 1987.

Two major uncontrollable factors force this request. The first is $26,000 needed to cover the annualized cost of the January 1987 3 percent pay raise and the annualized cost of the Federal Employees' Retirement System commonly known as FERS. The second is $312,000 to cover the increased cost of space in the Old Executive Office Building (OEOB) charged by GSA. In addition, the restoration of the historic Secretary of the Navy's office in the OEOB has required the permanent relocation of the Vice President and adjacent staff offices. Use of office space available to accommodate this relocation has resulted in a cost increase.

Emphasis on office automation continues to be an important focus of the Vice President's Office. The effect of this investment is now being realized thereby necessitating no increase in personnel and no real growth in our budget request.

Concurrent with our FY 1988 request, we are seeking funding in the amount of $117,000 for two FY 1987 supplemental appropriations. This request includes $10,000 for one-half the cost of the January 1987 3 percent pay raise and the full cost of $107,000 for the new retirement system.

In closing, this request continues to reflect the Vice President's commitment to the President's efforts and is necessary so that he might fulfill these important responsibilities.

Official Residence of the Vice President

Congress created the temporary Official Residence of the Vice President in 1974 to serve as a facility for official

entertainment and as a home for the Vice President and his family. The Secretary of the Navy was charged with oversight of the Residence subject to the supervision of the Vice President

Primary administrative control of the Residence account remained with the Navy until FY 1987. In a move to standardize financial operations for agencies in the Executive Office of the President (EOP) and to comply with recommendations made by the GAO, the Vice President requested that financial administration of the Residence be transferred to the Office of Administration (OA).

The Fiscal Year 1988 budget estimates for the Official Residence of the Vice President are the first to be created following this transfer. To be consistent with GAO-approved accounting and budgetary standards, it was necessary to reclassify FY 1987 estimated expenditures. This reclassification and determination of funds was made difficult by our inability to determine the basic operating costs of the Residence in previous years. As a result, our request for FY 1988 represents the best estimates possible and must be considered transitional until the true operating costs are determined. Every effort will be made to ensure fiscal constraint; however, adjustments to the distribution of funds may be required.

For Fiscal Year 1988, the Residence respectfully requests an appropriation of $258,000 representing a $47,000 increase over our fiscal year 1987 budget authority. Included in this request are the following:

- Authorization and funding for 1 full-time permanent position is requested. The current Administrative Assistant to the Residence is on the rolls of the Special Assistance to the President account. In FY 1987, one-half the cost of this position will be reimbursed to that account: the full cost of the position is requested for FY 1988.

- A provision in the Appropriation Language is needed to allow the rental of a staff vehicle for local travel in direct support of the Residence since the Department of Navy is currently providing this vehicle.

- An additional $15,000 is requested to meet official entertainment costs at the Residence. Funding for official entertainment has not been increased since FY 1978 and in that time, food and food service costs have dramatically increased. As provided by law, these funds must be certified by the Vice President and reviewed by the GAO.

- The purchase of a personal computer to provide the Residence with a hookup to the Office of Administration accounting systems and electronic mail and messenger service is also requested.

Should any of these increases prove to be unnecessary, we will immediately inform this Committee. However, patience is requested until the true operating costs of the Residence are determined. With your support, the transfer of financial administration can be achieved with little disruption to the Vice President.

Council of Economic Advisers

The Council of Economic Advisers respectfully requests an appropriation of $2,628,000 for Fiscal Year 1988. This request represents an increase of $242,000 over the current level of $2,386,000 and consists of $39,000 for personnel and benefits and $203,000 for rental payments to GSA. We are absorbing costs for promotions, merit increases, and the executive level pay raises for the three Members.

Two FY 1987 supplemental appropriations are concurrently requested. The first supplemental will provide one-half the cost or $16,000 of the 3 percent January 1987 pay raise while the second will allow us to meet the estimated $95,000 cost of the new Federal Employees' Retirement System.

The appropriation we have requested for Fiscal Year 1988 provides what we feel is a realistic level of support for the Council; it reflects also our commitment to producing the best possible work in the most effective manner.

Office of Policy Development

I am pleased to present the budget request for the Office of Policy Development and to briefly discuss the operation of the Office within the Executive Office of the President. The Office of Policy Development is responsible for advising and assisting the President in a wide range of domestic issues and for supporting the cabinet-level bodies designated as the primary channels for advising the President on domestic policy matters. The Fiscal Year 1988 budget request will provide for salaries and expenses necessary to meet these responsibilities.

In addition to providing advice and assistance to the President, the Office of Policy Development works closely with and provides support to the Domestic Policy Council and Economic Policy Council. The President chairs both Councils. The Economic Policy Council provides advice on all aspects of national and international economic policy. The Domestic Policy Council provides advice on domestic and social policy.

The personnel request for Fiscal Year 1988 is for 42 staff positions, the same number of positions as in the current year. The staff positions of the Office of Policy Development are used to perform the formulation, evaluation, and coordination functions necessary to guide long-range economic and domestic policy and to assist the two cabinet councils. The Office of Policy Development continues to work closely with the National Security Council in areas where domestic policy includes international considerations. The Drug Abuse Policy Office is an integral part of the Office of Policy Development.

The Office of Policy Development also supports several other functions within the Executive Office of the President, including the Office of Cabinet Affairs and the President's Economic Policy Advisory Board. The President's Economic Policy Advisory Board has 13 members and the Office of Policy Development pays the necessary travel expenses for these members to attend the Board's meetings.

Fiscal Year 1988 Budget Request

The budget request for Fiscal Year 1988 is $3,122,000 which represents a $410,000 increase over the Fiscal Year 1987 budget estimate of $2,712,000. Over 70 percent or $297,000 of the increase is due solely to the change in rates charged by the General Services Administration for assigned office space in the Old Executive Office Building. The remaining $113,000 of the increase is due to the annualized cost of the 3 percent January 1987 pay raise and the new Federal Employees' Retirement System.

The approved appropriation for Fiscal Year 1987 is $2,600,000 and a supplemental budget appropriation of $112,000 is requested which will provide for half or $23,000 of the cost of the January 1987 three percent pay increase and will meet the estimated $89,000 cost of the new Federal Employees' Retirement System.

The Committee has been very supportive of the Office of Policy Development and have made possible the advances in automation which have aided the operation of the Office. I want to thank the Chairman and the members for their support.

National Critical Materials Council

For FY 1988, the National Critical Materials Council requests an appropriation of $178,000, which is $3,000 or 1.71 percent greater than our FY 1987 budget authority. Included in this request is an additional $5,000 to cover the Council's annualized cost of the government-wide 3 percent pay raise and the new Federal Employees' Retirement System (FERS). To offset this increase, minor reductions were absorbed in the communications, utilities, and miscellaneous charges line item.

The National Critical Materials Council was created by the National Critical Materials Act of 1984 with a wide variety of purposes and statutory obligations, including the following responsibilities:

- To help establish and coordinate federal materials-related policies, programs, and research and technology activities.

- To advise Congress and the President on materials issues, as appropriate.

- To evaluate critical materials needs, including research and development, of industry and government.

- To advise the President of mineral and material trends, both domestic and foreign, and their implications for national security and the nation's economy.

The Council is comprised of a Chairman, who is Interior Secretary Donald Hodel, and two other members, who are Deputy Secretary of Energy William Martin and Council of Economic Advisers member Thomas Moore. Secretary Hodel was appointed Chairman in September 1986.

Because of the Council's broad mandate, the Council has been required to spend substantial time and effort reviewing possible issues to focus on, including the economic health of the domestic mining and minerals processing industries, the adequacy of critical materials availability to meet national security requirements, federal and private sector research and development activities in the advanced materials area, and the effect on the nation's productivity of trends in the minerals and materials industries. Both the Council and staff have held numerous meetings with federal agency officials, and industry and academic leaders in both the basic minerals and advanced materials fields, and have testified to Congress on these topics.

At present, the Council is focusing on preparation of two major reports, the Critical Materials Report and the Advanced Materials Report, both of which are to be presented in loose-leaf binder format. The Critical Materials Report will analyze both individual commodities, such as copper, aluminum, and cobalt, and cross-cutting issues, such as international financial assistance for mineral development, research and development in the minerals area, and government regulation of mining and minerals processing.

The Advanced Materials Report will pull together the materials research budgets of six federal agencies, Energy, Defense, Interior, NASA, National Science Foundation, and the National Bureau of Standards, and will address such cross-cutting issues as technology transfer, adequacy of the U.S. educational institutions in the materials area, and industry-academia-government cooperation in materials research.

These reports will be "dynamic" documents. That is, we plan to continually improve, update and expand them, adding staff-prepared studies and incorporating comments from both the public and private sectors.

The questions the Council is addressing are vital, since minerals and materials are at the heart of our nation's industrial and economic welfare. At the same time, the Council recognizes the challenges facing it -- in both the breadth of policy issues and the complexity of interagency administrative issues it must deal with.

We look forward to Congress' continued understanding of and support for Council activities.

Unanticipated Needs

Congress recognized the need for the President to have limited funds available to meet unplanned and unbudgeted contingencies. The Unanticipated Needs account enables the President to meet these unplanned contingencies in furtherance of national interest, security, or defense. For Fiscal Year 1988, the President once again requests $1,000,000 for Unanticipated Needs.

Extreme prudence is always used when making an allocation from this fund. Each request is reviewed by the Office of Management and Budget (OMB) to ensure that the purpose is

consistent with the Administration's policies. Each request is also verified for the accuracy of the estimated need as well as to confirm that no alternative resources exist.

Since a prediction of how these funds will be spent is not possible, examples of how these funds were used in Fiscal Year 1986 and 1987 are offered. In Fiscal Year 1986, a single allocation was made for the operation of the Vice President's Task Force on Combatting Terrorism.

Only one allocation has been made so far in Fiscal Year 1987: $250,000 has been allocated for the creation and operation of the temporary President's Special Review Board. The purpose of the Board is to review the role and procedures of the National Security Council staff in the conduct of foreign and national security policy. One other allocation of $7,500 was originally requested to support the creation of the Federal Retirement Thrift Investment Board. This allocation later proved to be unnecessary and the money was returned to the Unanticipated Needs account.

Biography of Johnathan S. Miller

Johnathan S. Miller was appointed Deputy Assistant to the President for Administration on May 13, 1986. He also serves as Director of the Office of Administration. Prior to this appointment, Mr Miller served as the Senior Director for Coordination at the National Security Council.

From 1983 to 1985, Mr Miller was the Deputy Coordinator for Public Diplomacy for Latin America and the Caribbean at the Department of State; Peace Corps Director in Botswana, 1982-1983; Special Assistant to the Deputy Administrator, AID, 1981-1982; and Administrative Assistant to Congressman William Goodling, 1981.

Prior to joining the Reagan Administration, Mr. Miller served in the Reagan-Bush Campaign as Tour Director for George Bush and practiced law in Louisville, Kentucky, with the firm of Miller and Miller.

Mr. Miller received his Bachelor of Arts degree from Duke University in 1975 and his J.D. from the University of Louisville School of Law in 1978. He is married and resides in Leesburg, Virginia. Mr. Miller was born October 9, 1952 in Louisville, Kentucky.

Biography of Ronnie R. Rasmussen

Ronnie R. Rasmussen is currently the Acting Director of the Financial Management Division of the Office of Administration in addition to serving as Budget Officer for the Office of Administration, Executive Office of the President. He has served as Budget Officer since August 1981.

Prior to his appointment to this position, Mr. Rasmussen was Deputy Chief of the Financial Management Division with the U.S. Secret Service, an organization in which he has served in varying financial related positions since 1973. Mr. Rasmussen specifically assisted in the automation of their financial

accounting system, served as the Staff Assistant to the Assistant Director for Administration and in addition, acted as the Administrative Coordinator for the 1980 Presidential Campaign.

Mr. Rasmussen was born January 19, 1946, and raised in Akron, Ohio. While serving in the U.S. Navy, he was assigned to the White House Communications Agency from 1965 to 1969. He then worked for the National Security Council while attending the American University, where he obtained his Bachelor of Science degree in Accounting in 1973.

Mr. Rasmussen has been a member of the Association of Government Accountants since 1973, and is a recipient of the Presidential Service Badge and Certificate.

BUDGET REQUEST

Mr. MILLER. Thank you, Senator. I am pleased to appear before this committee to present the fiscal year 1988 budget request for nine accounts of the Executive Office of the President. The nine accounts are: The Compensation of the President; the White House Office; the Office of Administration; Special Assistance to the President; the Official Residence of the Vice President; the Council of Economic Advisers; the Office of Policy Development; National Critical Materials Council; and Unanticipated Needs.

As submitted, the fiscal year 1988 budget request for these nine EOP accounts total $53,819,000, which is an increase of $4,211,000 above the current proposed fiscal year appropriation. This increase is attributable to two major factors beyond the control of any of these agencies. First, the cost of the office space in the Old Executive and New Executive Office Buildings will rise a dramatic 109.25 percent and 17.29 percent respectively. These rate changes together will cost $3,108,000, or 73.81 percent of the increase.

The second factor forcing our request is increased personnel compensation and benefit costs resulting from the 3 percent Governmentwide January 1987 pay raise and the new Federal Employees' Retirement System. To fund the 1988 annualized portion of these increases, an additional $1,258,000 is requested.

Concurrently, we are requesting two fiscal year 1987 supplemental appropriations which include $278,000, or one-half of the cost of the 3 percent January 1987 pay raise, and $879,000 for the increased cost of the employee benefits due to the new FERS system.

Since these submissions were submitted two events have taken place which I am happy to report will reduce our overall budget request. Following a series of meetings between Mr. Golden from the GSA and myself, an agreement has been reached whereby the rate structure for the buildings in the Executive Office of the President complex can be computed in a more equitable and standardized manner. Once these charges are finalized, I will notify this committee and request the correct reduction in the rental payments to GSA with a corresponding reduction in each agency's fiscal year 1988 request. Without jeopardizing the Federal buildings fund, this will allow us to realize a savings of approximately $3 million for all agencies of the EOP in fiscal year 1988.

Second, I have been meeting with each of these agencies to determine whether the cost estimates submitted for the fiscal year 1987 supplementals are still accurate. At this time I would like to inform the committee that further absorption of the pay raise and the cost of the new FERS system is possible for the White House and the Office of Administration in the amount of $283,000. As a result, Mr. Chairman, we will reduce our fiscal year 1987 supplemental requests accordingly. I will continue to monitor closely the ability of all other agencies to further absorb any of these costs and will notify this committee immediately should this be possible.

Presentation of these reductions and overall near no-growth budgeting is possible because of our continued emphasis on building automated systems in support of all EOP agencies. Without this emphasis, challenges such as meeting the legislative mandates of Gramm-Rudman could not have been met. Our computer center experienced a 66-percent increase in the amount of computer processing time, a dramatic increase in data storage, and a doubling in the number of printed pages. To enhance our flexibility and adaptability in fiscal year 1988, funds are requested to upgrade our mainframe computers, purchase software and productivity tools to interact with current systems, and replace obsolete equipment.

Likewise, we have been able to keep our personnel requirements steady through the use of productivity tools. For fiscal year 1988, we are requesting a total of 563 direct full-time permanent positions for the nine agencies, an increase of only one position. This has been achieved while providing service to three new accounts with no additional funding or personnel resources required.

Finally, I believe that these budgets set an example for efficient Government operation and prudent use of appropriated funds for other Government agencies. However, it would not have been possible without this committee's past support and commitment. In closing, I would like to offer my thanks to you, the committee, especially the staff, and hope that we can continue this positive working relationship.

SUPPLEMENTAL REQUEST

Senator DECONCINI. Thank you very much. Mr. Miller, you say in your statement that further absorption of the pay raise and the cost of the new Federal retirement system is possible for the White House Office and the Office of Administration in the amount of $283,000. Your supplemental request will be adjusted accordingly.

We could mark up a supplemental appropriation bill by as early as the first or second week in April, I am told. When will the subcommittee know if other executive offices of the President's account will be able to absorb all or part of the pending supplemental request for pay and FERS?

Mr. MILLER. I directly control only two of these accounts and those are the two accounts that we are taking the additional absorption. However, I will continue to attempt to reason with my colleagues back in the Executive Office of the President and I would hope that within the next week I should be able to give you an additional report.

Senator DECONCINI. That would be very helpful. Thank you.

The Executive Office of the President, with only two exceptions, receives at least a partial supplement to cover both pay and FERS. As you know, some of the most important agencies covered by this subcommittee receive no supplemental relief at all and will have to absorb millions of dollars in their current program. Some agencies will actually have to RIF Federal employees in order to pay others their 3 percent pay raise and their mandatory retirement contribution.

So when you submit this information to us, if you can give us a reason why the Executive Office of the President should get any supplemental, it would be very helpful, particularly when I have to explain to some of the other agencies before this committee that we may not be able to give them that.

Mr. MILLER. I will be glad to, Mr. Chairman. Let me say that the EOP agencies are a little bit more labor intensive and have no programmatic area that they can fall back on. I will give you one example. Our FERS acceptance rate is about 41 percent in the Office of Administration, versus what is projected as an average of about 11 percent from the executive branch. So we are getting hit much harder in FERS because we have a higher turnover rate in the EOP.

Senator DECONCINI. Well, of course, if you look at this particular subcommittee you will see that most of these are people intensive offices. They do not have any grants here and we are talking about mostly people, so I just want you to understand.

Mr. MILLER. Yes, sir.

Senator DECONCINI. It is difficult when your area comes in for it; it is granted, and others are not. So if you want to help me out you can give me that, and maybe help yourself too.

Mr. MILLER. I would be happy too.

Senator DECONCINI. Your statement confirms a memorandum of understanding that was signed between GSA and the Office of Administration within the Executive Office of the President which will reduce the space costs for most of the agencies under your control. The savings to the office covered by this bill will be about $2,750,000.

Will you be sending up a budget amendment to reduce your original budget request for each of these offices or can we just make the cuts when we mark up the appropriation bill?

Mr. MILLER. We will be happy to go ahead and provide that to you, but we have already informed all of the agencies that that passback was to be reflected in a lower markup.

[The information follows:]

The General Services Administration is currently producing the new rental payments estimates. We expect these estimates to be ready by the end of March and at that time, we will notify this committee of the exact reductions.

SAVINGS

Senator DECONCINI. OK. That is helpful.

Mr. RASMUSSEN. Mr. Chairman, if I may add on that issue.

Senator DECONCINI. Yes, please.

Mr. RASMUSSEN. We are currently working with GSA to determine the specific amounts not only for EOP agencies, but for other agencies that are housed in the EOP complex—for instance, Secret Service and GSA—who will also receive a savings. Hopefully, we will have that within the next 10 days and we will notify the committee of a complete rap-up on those figures.

Senator DECONCINI. Thank you. Mr. Miller, we are interested in cooperating and being sure you have the necessary resources to operate there and I appreciate some savings that you have indicated. What would be the effect on the operation of your office if this subcommittee were to hold your fiscal year 1988 appropriation to last year's level or provide say nothing more than an inflationary increase of something like 3 or 3½ percent?

Mr. MILLER. In all probability, we would have to lay off or RIF some people.

Senator DECONCINI. You would? How many? Would you like to supply that to us?

Mr. MILLER. I would be happy to, sir.

[The information follows:]

A reduction in force of approximately 50 people would be required if the White House was held to its fiscal year 1987 budget authority in fiscal year 1988. This action would be necessary since the White House would not have received in fiscal year 1987 or 1988 any funding for increased costs of the new Federal Employees' Retirement System, the 3-percent pay raise, the recommendations of the Quadrennial Commission, or rental payments for office space.

DETAILEES

Senator DECONCINI. Your aggregate report on personnel for fiscal year 1986 shows that the White House office spent almost $326,000 on 42 people who were detailed for more than 30 days to the White House to work on various assignments.

How many detailees have you budgeted for in fiscal year 1987–88, and where does the funding to pay for these detailees show up in the White House budget, if at all?

Mr. MILLER. We currently have approximately 20 reimbursable detailees in the White House Office, and we are one of the accounts that are required by law to reimburse for anything over 180-day duration. Some agencies have the ability to have nonreimbursable detailees. We do not. I will be happy to provide for the record where specifically that comes out in our request.

Mr. RASMUSSEN. Mr. Chairman, that appears in class 11.8 of the White House budget submission.

Senator DECONCINI. Does that lay out who they are?

Mr. RASMUSSEN. No, sir; just the monetary amount.

Senator DECONCINI. Just the monetary amount.

Will you supply us also, Mr. Miller, the names of those people who were detailed over the last year and how long they stayed?

Mr. MILLER. Yes, sir.

[The information follows:]

DETAILS TO THE WHITE HOUSE OFFICE—FISCAL YEAR 1986

Name	Agency or department	No. of days in excess of 30
Becker, Carolyn	Energy	153
Behrendt, Theresa	HUD	23
Bell, Billie Jean	Labor	335
Blood, Sharman	Education	86
Boyd, Hannah	AID	192
Charen, Mona	Agriculture	144
De Moss, Charlotte	Energy	204
Djerejian, Edward	State	274
Duncan, Cynthia	Education	80
Feister, Nancy	Treasury	237
Foley, Matthew	Defense	335
Gray, Hope	Agriculture	84
Guest, Michael	State	282
Hansen, Jake	Energy	39
Hickey, Edward	State	7
Hill, Kenneth	State	283
Hobson, Robert	Labor	112
Howard, Daniel	USIA	48
Janes, Nancy	OPM	90
Jenkins, Anna	EEOC	98
Johnston, Lynne	Interior	29
Kelliher, Janet	AID	70
Klugman, Mark	FEMA	4
Lewis, Wade	Education	274
McEwen, Maureen	Commerce	192
McGrath, C. Dean	Treasury	63
Miller, Linda	Agriculture	93
Moore, C. Dian	Agriculture	179
Morse, Frances	Transportation	80
Nolan, Cheryl	OMB	87
Olcott, Mary Sue	Interior	252
Pernice, Thomas	Commerce	276
Perrault, Linda	HHS	98
Poindexter, John	Navy	335
Popadiuk, Roman	State	48
Reigner, Barbara	Agriculture	79
Shepherd, John	Justice	113
Stevens, Pamela	Education	29
Thomas, Jane	USIA	335
Wilson, Jeanne	Education	167
Wong, Brenda	Transportation	335
Youstra, Patricia	HUD	335

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Fine, thank you. I have no further questions. We may submit some to you, Mr. Miller. Thank you, gentlemen, very much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Additional Committee Questions

Question: Setting aside the National Security Council, OMB, and the Office of Federal Procurement Policy for a moment, the total request of the offices appearing today is $61,222,000. Last year these offices received $58,151,000. Maybe since OMB is part of the family, you did better with them than did other agencies we have heard from to date. What was the original request to OMB for the agencies you are representing here today; where did OMB cut them back, if at all; and why? Be specific and tell us what the EOP offices asked for but were denied.

Answer: The original FY 1988 budget request for each of these agencies was made prior to the enactment of the new Federal Employees' Retirement System and the January 1987 3 percent pay raise. A joint White House and OMB decision approved a no increase budget above the FY 1987 budget authority for these agencies except for the uncontrollable increase in the cost of rental payments to GSA.

	Budget Authority FY 1987	Increase in Rental Payments to GSA for FY 1988	Other Changes	Joint White House and OMB Decision for FY 1988
Compensation of the President	250	0	0	250
White House Office	24,450	1,696	0	26,146
Office of Administration	15,700	600	(200)	16,100
Special Assistance to the President	1,790	312	0	2,102
Official Residence of the Vice President	211	0	47	258
Council of Economic Advisors	2,275	203	0	2,478
Office of Policy Development	2,600	297	0	2,897
National Critical Materials Council	175	0	(3)	172
Executive Residence*	4,700	0	0	7,100
Unanticipated Needs	1,000	0	0	1,000
White House Conference on Drug Abuse and Control	5,000	0	(5,000)	0
Total	58,151	3,108	(5,156)	58,503

* Includes a one-time request of $2,400 for exterior restoration of the White House.

Question: The Office of Administration's equipment budget increases by 80 percent next year over the level of funding provided in fiscal year 1987--from $500,000 in fiscal year 1987 to $906,000 next year. What is the reason for this large percentage increase for equipment next year?

Answer: The Office of Administration must not only be responsive to internal agency needs but also to the needs of all EOP agencies. In this attempt to be active rather than reactive, a thorough yearly examination of our equipment needs is made. Our FY 1988 request of $906,000 represents what is necessary to meet and anticipate user demands.

The majority or $533,000 of our FY 1988 equipment request is for the first of three payments on an upgrade of our two mainframe computers. This upgrade will increase the capacity and processing power of our two main computers and allow us to support the next generation of computer languages. At the same time, this upgrade will enable us to meet increased user demands without additional personnel. Past upgrades of this type enabled the timely publication of the accelerated FY 1988 President's Budget and allowed us to meet the information requirements mandated by the Gramm-Rudman legislation.

Like other agencies in the Executive Office of the President, the Office of Administration depends heavily upon the use of IBM Displaywriters and printers. IBM recently announced the discontinuation of this line of products and will not provide maintenance support past FY 1989. As a result, the OA will begin replacing this obsolete equipment with other computer equipment at an estimated cost of $190,000 for FY 1988.

Question: I notice that reimbursements to the Office of Administration have increased by 58 percent since fiscal year 1986 -- from $2,536,000 to $4,008,000 in FY 1988. These reimbursable services cover such things as specialized computer systems development work and the like performed at the request of agencies; plus additional requests from temporary agencies or commissions. To what do you attribute this substantial increase in your reimbursable program?

Answer: The majority of anticipated reimbursements for the Office of Administration is in the area of systems development. Due to the Gramm-Rudman sequestration in FY 1986, agencies limited their request for such discretionary development work reducing our FY 1986 actual reimbursements.

Specialized systems development work will continue to be the major focus of our reimbursements in FY 1987 and slightly rise in FY 1988. In addition, the OA will provide substantial support services to two temporary agencies and commissions which were not offered in FY 1986. The Commission on the Bicentennial of the Constitution will require substantial support services in FY 1987 to begin operations and help meet the broad charter given to them by Congress. As the initial start-up requirements are met, the extent of our services will diminish in FY 1988. Support will also be provided to the United States Institute on Peace in FY 1987 and 1988.

Question: You are asking for a provision in the appropriation language that would allow the rental of a staff vehicle for local travel in direct support of the Residence since the Department of the Navy is currently providing the car. The Residence was turned over to the

Executive Office of the President's Office of Administration beginning in fiscal year 1988 after 13 years of Navy administering the Residence. Why not take one or two vehicles from the Navy to cover your staff vehicle needs next year? The Navy has thousands of administrative vehicles and I see no reason why you should have to go out and rent a car.

Answer: It is true that the Navy currently provides a vehicle for local travel of Residence staff. However, the change to the Residence Appropriation Language will merely provide the authority to lease a commercial vehicle should the Residence so desire. While no decision has been made, preliminary findings indicate that renting a commercial vehicle may prove to be more cost beneficial than to continue with the Navy vehicle.

Question: I understand that there was some criticism of the job that the Navy did in handling the official Residence of the Vice President, thus contributing to the switch to the Office of Administration taking over the task. Can you shed some light on that?

Answer: A concerted effort has been underway for some time in the Executive Office of the President to standardize and centralize financial operations for all agencies of the Executive Office of the President. For several years, the General Accounting Office both formally and informally recommended the consolidation of financial accounting for the Residence within the Office of Administration, Executive Office of the President. The Vice President's Residence was one of two agencies remaining outside this system.

Second, the transfer occurred at the request of the Vice President. Centralized administrative support was already being provided to the Office of the Vice President (Special Assistance to the President) by the Office of Administration. Recognizing the responsiveness and level of centralized administrative support this Office was receiving, the Vice President felt the Residence's operation would benefit as well.

Question: Since fiscal year 1986, the White House Office equipment budget has grown from $563,000 to $800,000 -- an increase of 42 percent. Why this large percentage jump in your equipment budget?

Answer: The White House Office presently uses IBM Displaywriter word processors and printers for much of its office automation needs. However, IBM recently announced the discontinuation of manufacture, support, and maintenance of this product line, rendering our stock obsolete. We must therefore replace about 200 word processors over the next several years, an effort which will cost approximately $2.4 million at current prices.

Question: Between FY 1986 and 1987 ,the President's travel requirements increased four-fold -- from $26,000 to $100,000. Can you tell us why?

Answer: Included in the White House Appropriation Language is reference to 3 U.S.C. 103 which authorizes $100,000 to be appropriated each year for the travel expenses of the President. This amount is included in our FY 1987 and 1988 budget estimates. For fiscal year 1986, the actual expenses charged to this line item totalled $26,000 as much of the President's travel activities were political in nature--mid-term Congressional and Senatorial elections--and thus, were paid from funds of the respective campaign organizations.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

BIENNIAL BUDGET CYCLE

Question: Calls for budget reform are increasingly heard as budget deadlines are too often missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the two-year budget cycle where budget and appropriations matters would be considered in the first year, and authorization and oversight would be undertaken in the second year.

1. Would your department/agency favor a biennial process? What benefits would your agency achieve in a two-year appropriation cycle?

The Administration is currently studying the usefulness of the biennial cycle for agencies other than the Department of Defense. One benefit could be the reduction in uncertainty over funding due to the lack of Congressionally-approved appropriations bills. In preventing government shut down, savings of the taxpayers money could also be achieved even if it occurred only in the nonbudget year.

With respect to each of these agencies, the biennial cycle would not alter their annual thorough analysis of budgetary requirements. Rather, the cycle would require greater emphasis on forward planning to allow each agency the capability of meeting unanticipated demands.

2. Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Agencies of the Executive Office of the President are primarily labor intensive but also depend heavily upon automation and its associated costs.

As a result, the majority of each agency's annual budget request is recurring.

3. What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

As stated above, the biennial process would require greater emphasis on anticipating future needs. While this may not be problematic for any of these agencies, unplanned contingencies do develop. As a result, an extensive and responsive system would have to be constructed to facilitate operations in nonbudget request years.

In addition, the agencies of the Executive Office of the President are unique in that a great deal of our employees are political. Should a change in Administration political party take place, each agency would suffer a large turnaround in staff with high transitional costs as new staff come on board. Some provision would have to be developed to allow these agencies to meet these special costs. In addition, a provision should be included to allow the incoming administration reprogramming authority to accomplish new priorities and goals.

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

STATEMENT OF MANUS J. FISH, REGIONAL DIRECTOR, NATIONAL PARK SERVICE

ACCOMPANIED BY:

JAMES McDANIEL, ASSOCIATE REGIONAL DIRECTOR FOR WHITE HOUSE LIAISON

DOTTIE PERKS, BUDGET OFFICER, NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. Our next witness is Mr. Manus J. Fish, Jr., Regional Director, National Park Service, who will testify regarding the White House Residence. Mr. Fish, welcome. We have not seen you in a long time. We are glad to have you here.

Mr. FISH. Thank you, Mr. Chairman.

Senator DECONCINI. I hope your health is better.

Mr. FISH. Much better.

Senator DECONCINI. You look fit and I am glad to see that. Your full statement will appear in the record, Mr. Fish, and please proceed with the summary of your statement.

Mr. FISH. I would like to introduce Mr. Jim McDaniel, on your left, Associate Regional Director for White House Liaison.

Senator DECONCINI. Welcome, Mr. McDaniel.

Mr. FISH. And on your right, Ms. Dottie Perks, our Budget Officer for the National Park Service, National Capital Region.

Senator DECONCINI. Welcome, Ms. Perks.

Mr. FISH. Mr. Chairman, I do appreciate the opportunity to appear before you to present for your consideration the fund requirements for maintenance and operation of the Executive Residence at the White House for fiscal year 1988.

The appropriation request for this account for fiscal year 1988 is $7,403,000. Mr. Chairman, on October 13, 1792 George Washington supervised the laying of the cornerstone of the White House. By the 200th anniversary of this historic occasion, we would like to have completed the exterior restoration of the White House begun nearly 8 years ago with the encouragement of this committee.

RESTORATION OF STONE FACADE

In order to achieve this goal, we have included in our fiscal year 1988 request an amount of $2,400,000 for restoration and painting of the 200-year-old stone facade. This work is to be done over a 6-year period.

The White House has from 30 to 50 layers of paint on its exterior walls. After several years of paint failure and increased maintenance costs, we requested a research investigation in 1977 by the National Bureau of Standards with its world-renowned expertise in the field of paint chemistry.

Mr. Chairman, if I may, we have a book here that we have for you and we have one for each member of the committee that explains the restoration process.

Senator DECONCINI. Thank you.

Mr. FISH. Perhaps I might just go through the book quickly for you. This investigation that I just mentioned, starting on page 3, started in 1978, and as I said, was with the National Bureau of Standards and the National Park Service and the chief ushers staff.

In 1980, the committee gave us money for the restoration. Every 4 years we used to paint the White House in time for the inauguration. In 1980 after this investigation by the National Bureau of Standards, we began to actually take these 30 to 50 paint coats off the face of the building and restore some of the stone and then repaint it.

So you can see on page 5 what we got started in 1980. And then the frontispiece, Mr. Chairman——

Senator DECONCINI. Where is that particular area? What side of the building is that?

Mr. FISH. The east face of the White House.

Senator DECONCINI. East.

Mr. FISH. And that shows, also, on the frontispiece, the process of the work. So you can see that about one-third or one-quarter of the building of that side has been stripped down to the bare stone.

Then in 1984, on page 6 in the book, Mr. Chairman, we did the north portico. And there were at least 50 coats of paint on the north portico. You could never see the architectural detail.

And then if you would just thumb back through to page 12, you can see that work under construction, the restoration. And then on page 1, I think, is an excellent picture of what actually happened with that restoration. It shows all of that architectural detail above the doorway in the north portico.

STONE CARVER

That was completed then in 1984. In 1980 we did the east face, we stripped it, fixed the stone, and painted the other three faces. In 1984, we stripped the north portico and painted that. Now, in 1986, on page 7, Mr. Chairman, shows the stone carver. The stone carver made a study of the building and the work that needs to be done. Page 9 it shows the remaining areas of the White House where the stone needs to be fixed.

We have the stone located in Rock Creek Park in one of the National Park Service areas, and our proposed schedule is shown on page 11 which would take us from 1988 through 1992. The reason that we are asking for the money at this time, Mr. Chairman, is to build the staff of the stone carver so that he can have that staff together on a continuing basis to accomplish this work.

The building would have to be stripped over these 5 or 6 years, the stone carver continually working, and then repainted, so that we could complete the repainting in the spring following the bicentennial of the laying of the cornerstone.

NORMAL OPERATING EXPENSES

Funds for our normal operating expenses are requested in the amount of $5,003,000. Included in this request are funds for service support for the computer system; for maintenance of the high voltage electrical switching system; for replacement of deteriorated hardware on doors—particularly along the tour lines through the historic residence—for replacement of household appliances which are now beyond their life expectancy, and for the 1987 pay increase and agency contribution increase to the Federal Employees' Retirement System.

FISCAL YEAR 1987 APPROPRIATION

Currently, our 1987 appropriation is $4,700,000 with a supplemental request—and I have heard your questions to the other people that have been up here about the supplemental—of $43,000 for 50 percent of the 1987 pay increase and $53,000 for the agency contribution to FERS, a total of $4,796,000.

PREPARED STATEMENT

That would basically conclude my testimony, Mr. Chairman. I would be pleased to try to answer any questions.

[The statement follows:]

STATEMENT OF MANUS J. FISH, JR.

Mr. Chairman, and members of the committee, I appreciate the opportunity to appear before you to present, for your consideration, the fund requirements for maintenance and operation of the Executive Residence at the White House for fiscal year 1988.

The appropriation request for this account for fiscal year 1988 is $7,403,000. Mr. Chairman, on October 13, 1792, George Washington supervised the laying of the cornerstone of the White House. By the 200th anniversary of this historic occasion, October 13, 1992, we would like to have completed the exterior restoration of the White House begun nearly 8 years ago with the encouragement of this committee. In order to achieve this goal, we have included in our fiscal 1988 request an amount of $2,400,000 for restoration and painting of the 200-year-old stone facade. This work is to be done over a 6-year period.

The White House has from 30 to 50 layers of paint on its exterior walls. After several years of paint failure and increased maintenance costs, we requested a research investigation in 1977 by the National Bureau of Standards with its world-renowned expertise in the field of paint chemistry. This investigation led to a recommendation to remove all paint down to bare stone, repair deteriorated stone substrates and repaint

with a modern coating system. The east wall and the north portico areas have been so restored. The remaining wall, subject to more pronounced deterioration from weather exposure, will require more extensive stone repair and replacement.

Funds for normal operating expenses are requested in the amount of $5,003,000. Included in this request are funds for service support for the computer system; for maintenance of the high voltage electrical switching system; for replacement of deteriorated hardware on doors throughout the historic residence; for replacement of household appliances which are now beyond their life expectancy; and, for the fiscal year 1987 pay increase and agency contribution increase to the Federal Employees' Retirement System [FERS]. Currently, our fiscal year 1987 appropriation is $4,700,000 with supplemental requests of $43,000 for 50 percent of the fiscal year 1987 pay increase and $53,000 for the agency contribution increase to the Federal Employees' Retirement System for a total appropriation of $4,796,000. Please note a departure in our object classification as reported in the 1988 budget appendix. These changes represent a more accurate distribution of estimated fiscal year 1987 and fiscal year 1988 expenditures.

This concludes our budget request Mr. Chairman. I shall be pleased to answer any questions you and other members of the committee may have above the operations of the Executive Residence.

Executive Residence at the White House

FISCAL YEAR 1988 APPROPRIATION SUMMARY STATEMENT

This budget provides for the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official ceremonial expenses of the President to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

The fiscal 1987 appropriation for this account is $4,700,000 as provided in Public Laws 99–500 and 99–591, with a supplemental request of $43,000 which is 50 percent of the fiscal year 1987 pay cost increase and, with a supplemental request of $53,000 for agency retirement contributions to the Federal Employees' Retirement System as authorized by Public Law 99–335. The fiscal year 1988 budget provides for $2,400,000, to remain available until expended, for exterior stone replacement and repair. A request of $5,003,000 for normal operating expenses with the one time request of $2,400,000 brings the fiscal year 1988 budget request to $7,403,000.

JUSTIFICATION FOR APPROPRIATION, FISCAL 1988

[Dollars in thousands]

Activity: Operating expenses	1986 actual	1987 estimate	1988 estimate	Increase/ decrease
Operating expenses	$4,380	$4,796	$7,403	+$2,607
Full-time permanent positions	93	93	93	
Total compensable work-years in full-time equivalents [FTE]	93	93	93	

Authorization: 3 U.S.C. 105, 109–110, 112–114

Objective.—To provide for the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House, and official and ceremonial functions of the President.

Program

The Executive Residence staff provides for the operation of the Executive Residence. A staff of 40 domestic employees accomplishes general housekeeping, prepares and serves meals, greets visitors, and provides services as required in support of official and ceremonial functions. A staff of 32 tradespersons, including plumbers, carpenters, painters, on a single shift; electricians on a double shift; and operating engineers on a 24-hour basis, maintains and makes repairs, minor modifications, and improvements to the 132 rooms and the mechanical systems, and provides support for official and ceremonial functions.

A staff of 13 specialized employees provides services necessary to the operation of the White House and official and ceremonial functions. This staff includes four florists, four curators, and five calligraphers.

An administrative staff consists of the chief usher, three assistant ushers, one executive grounds superintendent, two administrative assistants, and one chief accountant. This staff is charged with management and administrative functions of the Executive Residence. This requires coordination with the Executive Office of the President, the National Park Service, the military, the U.S. Secret Service, the General Services Administration, and other agencies.

The equivalent of four full-time work-years of extra staff above the ceiling for full-time permanent positions are hired under personal services contract agreements (service by agreement) to provide additional help as required for official and ceremonial functions.

Current accomplishments

The White House is maintained as a home for the President and his family, a public museum and a facility for official and ceremonial functions.

The White House is open for public tours Tuesday through Saturday in addition to some national holidays, the evening candlelight tours at Christmas, the Easter Monday egg roll, and spring and fall garden tours. During 1986, an average of 5,141 visitors toured the White House each day for 255 days; 16,565 people viewed the White House during the 1985 candlelight tours, and 35,092 people participated in the 1986 Easter egg roll.

Budget considerations

In addition to normal operating costs, we are requesting $2,400,000 for the restoration of the stone facade of the Executive Residence. Funds would remain available until expended with anticipated completion of the project in the spring following the 200th anniversary of the laying of the White House cornerstone in 1992.

Please note a departure in our object classification as reported in the 1988 budget appendix. These changes represent a more accurate distribution of estimated fiscal year 1987 and fiscal year 1988 expenditures.

ANALYSIS BY ACTIVITIES

[In thousands of dollars]

	Fiscal year—			Increase (+) or decrease (-) 1988 compared with 1987
	1986	1987	1988	
Operating expenses	4,380	[1]4,796	7,403	+2,607

[1]Includes a supplemental request of $43,000 which is 50 percent of the pay cost increase and $53,000 for agency retirement contributions to the Federal Employees' Retirement System.

OPERATING EXPENSES

[In thousands of dollars]

Identification code 11-0210-0-1-802		1986 actual	1987 estimate	1988 estimate
	Program by activities:			
	Direct program:			
	Operating expenses	4,380	4,796	7,403
	Reimbursable program	852	1,106	1,244
10.0	Total obligations	5,232	5,902	8,647

OPERATING EXPENSES—Continued

[In thousands of dollars]

Identification code 11-0210-0-1-802	1986 actual	1987 estimate	1988 estimate
Financing:			
Offsetting collections from:			
11.0 Federal funds	-328	-450	-515
14.0 Non-Federal sources	-524	-656	-729
25.0 Unobligated balance lapsing			
Total	4,380	4,796	7,403
Budget authority:			
40.00 Appropriation	4,380	4,700	7,403
44.10 Supplemental for wage board pay raises		18	
44.20 Supplemental for civilian pay raises		25	
44.40 Supplemental for retirement contributions (Public Law 99-335)		53	
Relation of obligations to outlays:			
71.00 Obligation incurred, net	4,380	4,796	7,403
72.40 Obligations balance, start of year	276	38	170
74.40 Obligated balance, end of year	-38	-170	-739
77.00 Adjustments in expired accounts	-4		
89.00 Outlays	4,614	4,664	6,834
Outlays:			
90.00 Outlays excluding pay and retirement supplementals	4,614	4,568	6,834
91.10 Outlays from wage board pay raise supplemental		18	
91.20 Outlays from civilian pay raise supplemental		25	
91.40 Outlays from retirement supplemental		53	
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	2,697	2,895	2,959
11.5 Other personnel compensation	503	597	624
11.9 Total personnel compensation	3,200	3,492	3,583
Other:			
12.1 Personnel benefits: Civilian	329	409	560
21.0 Travel and transportation of persons	4	3	3
23.2 Communications, utilities, rent	207	239	239
25.0 Other services	191	303	2,590
26.0 Supplies and materials	405	345	372
31.0 Equipment	44	5	56
99.0 Subtotal direct obligations	4,380	4,796	7,403
99.0 Subtotal reimbursable obligations	852	1,106	1,244
99.9 Total obligations	5,232	5,902	8,647

PERSONNEL SUMMARY

Identification code 11-0210-0-1-802	1986 actual	1987 estimate	1988 estimate
Total number of full-time permanent positions	93	93	93
Total compensable work-years:			
Full-time equivalent work-years	93	93	93
Full-time equivalent of overtime and holiday hours	17	17	17
Reimbursable:			
Full-time equivalent employment			
Full-time equivalent of overtime	3	3	3

REIMBURSABLES

Senator DECONCINI. Thank you. Your budget, Mr. Fish, shows that you expect to receive $1,244,000 for your reimbursable programs next year.

Mr. FISH. Yes, sir.

Senator DECONCINI. This would be in addition to your regular operating expense budget of $7,403,000. Can you tell us what reimbursables you are expecting in fiscal year 1988?

Mr. FISH. That basically is from the State Department. They pay for dinners for visiting heads of state. Also, there is a reimbursable with GSA, because of the way the electrical system is there at the White House—the meters are in the Residence—they have to reimburse us for their electrical use.

Senator DECONCINI. Do you prorate that on an hourly basis for them, or what do you do?

Mr. FISH. I think it is prorated, but it is a system that has been working for a number of years. The same thing with the White House Communication Agency. So it is a reimbursable.

Senator DECONCINI. So a State Dinner is paid for by the State Department's budget?

Mr. FISH. That is correct, yes, sir.

Senator DECONCINI. What about a non-State Dinner?

Mr. FISH. Well, those are official ceremonies and functions and they are part of this particular budget request here.

Senator DECONCINI. Very good. I have no further questions. Thank you very much.

Mr. FISH. Mr. Chairman, if I may just take a minute.

Senator DECONCINI. Sure.

WHITE HOUSE HISTORICAL ASSOCIATION

Mr. FISH. We have here and we would like to present to you, and we have a copy for the other members of the committee, a recent book that was published by the White House Historical Association. It is "The President's House," and it really is the culmination of 10 years of research by noted author and historian William Seale. In this two-volume definitive history of the White House, Seale traces the story of America's foremost home back to George Washington, selection of the site overlooking the emerging federal city, and then describes the evolution of the White House along with the growth of the Nation.

Then he takes the evolution of the White House from Washington, through Adams who was the first President to live in the House, and on through the complete interior restoration during the Truman administration. This book is available at the book stores and is available for sale by the White House Historical Association.

The White House Historical Association, which was established in 1961, sells the other four books that are sold at the White House—"The Presidents," "The First Ladies," "The Living White House," and "The White House: An Historic Guide" and provides information about the

White House—and takes those receipts and buys furnishings and art for the White House. Since 1961 close to $5 million has been given to the White House for acquisitions in the fine arts area.

Senator DECONCINI. And that operates all on nonappropriated funds?

Mr. FISH. That is correct. And it is similar to every park in the National Park System. This happens to be the White House. Dr. Melvin Payne wanted you and the members of the committee to have this new book.

ADDITIONAL COMMITTEE QUESTION

Senator DECONCINI. Well, thank you very much and we will express our thanks to him. Other members of the committee may submit some questions, also.

Thank you very much.

Mr. FISH. Yes, sir.

[The following question was not asked at the hearing but was submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTION

Question. Your budget for personnel benefits increases by $151,000 or 37 percent next year. Yet, your staffing remains at 93 people. Why this large jump in personnel benefits next year?

Answer. The increase in benefits is due to two factors. First, the Federal Employees' Retirement System Act of 1986, Public Law 99–335 became effective on January 1, 1987. This law increases the employer agency's share of retirement cost. The new system affects post-1983 hires (employees hired after December 31, 1983) and Civil Service Retirement System employees who switch to the new system. The second factor increasing object class 12 costs is the 3-percent pay increase effective January 1987. Benefit rates are determined by salaries.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until tomorrow, March 10, at 9:30 a.m. in Senate Dirksen 116. We will receive testimony from the Director of OMB, Mr. Miller, and Mr. Robert Bedell, Administrator of the Office of Federal Procurement Policy.

[Whereupon, at 11:56 a.m., Monday, March 9, the subcommittee was recessed, to reconvene at 9:30 a.m., Tuesday, March 10.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

TUESDAY, MARCH 10, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:04 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Proxmire, D'Amato, and Mikulski.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF FEDERAL PROCUREMENT POLICY

STATEMENT OF ROBERT P. BEDELL, ADMINISTRATOR

ACCOMPANIED BY:
ALLAN BURMAN, DEPUTY ADMINISTRATOR
DAVID BAKER, ASSOCIATE ADMINISTRATOR FOR MANAGEMENT CONTROLS

PREPARED STATEMENT

Senator DECONCINI. The subcommittee will come to order.

This morning, the Treasury, Postal Service, and General Government Subcommittee continues its fiscal year 1988 budget hearings. We are going to receive testimony from the Director of OMB, Mr. Miller. He is not with us right now because he is at the White House, as is my ranking member. So we will proceed to Mr. Robert P. Bedell, Administrator of the Office of Federal Procurement Policy.

I want to, for the record, say that this hearing today will not be long. We have looked at these budgets carefully and they are quite straightforward, and we appreciate that effort. We do have a few questions to ask you about some specifics.

Mr. Bedell, your full statement will be put in the record as if read and you can summarize it for us, please.

[The statement follows:]

LETTER FROM ROBERT P. BEDELL

MAR 03 1987

Honorable Dennis DeConcini
Chairman
Subcommittee on Treasury, Postal Service
and General Government
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Transmitted herewith is the Fiscal Year 1988 budget justification for the Office of Federal Procurement Policy. Our request for $2,489,000 and 32 permanent positions reflects an increase of $857,000 and seven positions from Fiscal Year 1987. Our budget request for Fiscal Year 1988 would approach the funding and strength levels in prior years and represents a major step in the Administration's commitment to reinvigorate the office and our common objective of improving and simplifying our procurement process. This increase in funds is due to the increase in personnel and the attendant office space costs.

We are also requesting a supplemental increase in our Fiscal Year 1987 budget authority in the amount of $32,000 for civilian pay raises and retirement contributions that went into effect earlier this year.

I am looking forward to meeting with you and your colleagues at our budget hearings. In the meantime, if I can be of assistance please let me know.

Sincerely,

Robert P. Bedell
Administrator

STATEMENT OF ROBERT P. BEDELL

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE TO DISCUSS THE FISCAL YEAR 1988 APPROPRIATION REQUEST FOR THE OFFICE OF FEDERAL PROCUREMENT POLICY. IT IS AN IMPORTANT REQUEST. I AM ACCOMPANIED HERE TODAY BY DR. ALLAN BURMAN, OFPP'S DEPUTY, AND MR. DAVID BAKER, MY OTHER PRINCIPAL COLLEAGUE, WHO IS THE ASSOCIATE ADMINISTRATOR FOR MANAGEMENT CONTROLS.

THE PRESIDENT HAS REQUESTED $2,489,000 FOR OFPP IN FY 1988. THIS IS AN INCREASE OF $857,000 FROM THE ESTIMATED FY 1987 LEVEL OF $1,632,000. IN "REAL" OR 1988 CONSTANT DOLLAR TERMS, THE 1988 REQUEST IS APPROXIMATELY $350,000 BELOW THE ANNUAL AVERAGE

FUNDING LEVEL FOR OFPP SINCE ITS INCEPTION. THE PRESIDENT'S FY 1988 REQUEST FOR OFPP IS, FOR EXAMPLE, ALMOST $2.5 MILLION LESS IN REAL TERMS THAN ITS 1978 FUNDING LEVEL.

THE INCREASE REQUESTED FOR FY 1988 IS AN ESSENTIAL STEP IN THE ADMINISTRATION'S COMMITMENT TO REINVIGORATE OFPP AND IMPROVE THE PROCUREMENT PROCESS. THE FUNCTIONS OF THE OFFICE OF FEDERAL PROCUREMENT POLICY INCLUDE, AMONG OTHER THINGS:

- ENSURING THAT AGENCIES ESTABLISH AND MAINTAIN A SINGLE SYSTEM OF SIMPLIFIED GOVERNMENT-WIDE PROCUREMENT REGULATIONS -- REGULATIONS THAT MAKE SENSE;
- COORDINATING, REVIEWING AND DIRECTING THE DEVELOPMENT OF GOVERNMENT-WIDE PROCUREMENT POLICIES AND REGULATIONS; AND
- PROVIDING LEADERSHIP AND COORDINATION OF EXECUTIVE BRANCH POSITIONS ON PROCUREMENT LEGISLATION.

THE FUNDING INCREASE WILL ALLOW US TO HAVE THE STAFF NEEDED--ABOUT 32 -- TO SEE THAT THIS CHARTER IS VIGOROUSLY CARRIED OUT AND TO SEE THAT THE RECENT REFORM INITIATIVES OF BOTH THE ADMINISTRATION AND CONGRESS TAKE HOLD.

REFORM OF THE PROCUREMENT PROCESS CONTINUES TO BE A TOP PRIORITY FOR THE OFFICE. WHILE MUCH HAS BEEN ACCOMPLISHED OVER THE PAST SIX YEARS, STILL MORE NEEDS TO BE DONE.

IN THE 99TH CONGRESS, 12 LEGISLATIVE PROPOSALS WERE ENACTED THAT PRIMARILY CONCERNED PROCUREMENT. OVER 200 LEGISLATIVE PROPOSALS WERE INTRODUCED. MANY WILL BE TAKEN UP IN THE 100TH CONGRESS. BOTH CONGRESS AND THE PRESIDENT EXPECT US TO SET FORTH OUR VIEWS ON THE GOVERNMENT-WIDE ISSUES RAISED.

WE ALSO HAVE PLANNED SOME MAJOR LEGISLATIVE INITIATIVES, SUCH AS A CONSOLIDATED, SIMPLIFIED PROCUREMENT STATUTE THAT THE PACKARD COMMISSION URGED. WE WILL ALSO SUBMIT PROPOSALS TO IMPROVE PROCUREMENT "PROCESS" PROBLEMS, SUCH AS IMPROVING THE

FEDERAL ACQUISITION REGULATORY (FAR) SYSTEM. THE PROPOSED INCREASE IN PERSONNEL FOR OFPP, WHEN COUPLED WITH THE OFFICE'S CURRENT STAFFING RESOURCES, IS NECESSARY TO CARRY OUT THESE--AND OTHER -- INITIATIVES.

DURING FY 1988, OFPP WILL CONTINUE ITS EMPHASIS ON COMPETITION. THE COMPETITION IN CONTRACTING ACT OF 1984 (CICA) ESTABLISHED COMPETITION AS THE DOMINANT ACQUISITION POLICY. HOWEVER, A SOON TO BE RELEASED GENERAL ACCOUNTING OFFICE (GAO) REVIEW OF AGENCIES' COMPLIANCE WITH CICA FOUND A NUMBER OF DISCREPANCIES IN FIELD-LEVEL IMPLEMENTATION OF CICA. ACCORDINGLY, WE WILL ADVOCATE OUR POLICIES TO SUPPORT OPEN, COMPETITIVE ACQUISITIONS BASED UPON PERFORMANCE REQUIREMENTS THAT SET FORTH CLEARLY THE GOVERNMENT'S MINIMUM NEEDS. WE ALSO PLAN TO STRESS A PREFERENCE FOR THE ACQUISITION OF COMMERCIALLY AVAILABLE PRODUCTS.

ANOTHER CRITICAL CONCERN IS PERSONNEL. WAYS OF IMPROVING THE RECRUITMENT, TRAINING AND OVERALL COMPETENCY OF THE ACQUISITION WORKFORCE ARE NECESSARY ELEMENTS OF PROCUREMENT REFORM. THIS IS AN AREA WHERE OFPP, WORKING WITH GSA AND ITS FEDERAL ACQUISITION INSTITUTE, THE OFFICE OF PERSONNEL MANAGEMENT, AND THE MAJOR ACQUISITION DEPARTMENT'S AND AGENCIES, CAN CONTINUE TO MAKE CONTRIBUTIONS TO THE EFFICIENCY AND EFFECTIVENESS OF THE PROCUREMENT PROCESS.

MR. CHAIRMAN, AS I NOTED EARLIER, THE PRESIDENT'S REQUEST FOR FUNDING FOR THE OFFICE OF FEDERAL PROCUREMENT POLICY FOR FISCAL YEAR 1988 IS $857,000 ABOVE THE AMOUNT REQUESTED AND APPROPRIATED IN FY 1987 FOR THE OFFICE. THE FY 1987 AMOUNT OF $1,632,000 IS NOT ADEQUATE EVEN TO EMPLOY THE 25 PEOPLE THAT WE HAD HOPED TO HAVE ON BOARD IN FY 1987, AND CLEARLY IS NOT SUFFICIENT TO SUCCESSFULLY UNDERTAKE THE "CORE" AGENDA THAT WE HAVE DEVELOPED OVER THE LAST FOUR MONTHS SINCE I BECAME THE

ADMINISTRATOR OF THE OFFICE. IT IS NOT SUFFICIENT BECAUSE, IN ADDITION TO MYSELF, DR. BURMAN AND MR. BAKER, THE OFFICE CURRENTLY HAS ONLY 9 OTHER PROFESSIONALS AND 7 ADMINISTRATIVE STAFF MEMBERS. WE HOPE TO COMPLETE OUR HIRING FOR FY87 WITH THE ADDITION OF TWO ADDITIONAL PROFESSIONALS. THE HIRING OF THESE TWO PROFESSIONALS WILL BRING THE OFFICE TO 21 PEOPLE. OF THE 19 CURRENTLY EMPLOYED IN OFPP, ONLY FIVE -- INCLUDING ME -- ARE NEW IN THE OFFICE SINCE LAST NOVEMBER.

THE PRESIDENT'S BUDGET REQUEST FOR OFPP FOR FY 1988 WOULD ENABLE ME TO EMPLOY UP TO ABOUT 32 FTE IN FY 1988, WHICH I BELIEVE IS NECESSARY IF OFPP IS TO BECOME EFFECTIVE IN MATTERS BEYOND THOSE CURRENTLY UNDERWAY. A STAFF OF 32 WILL STILL BE BELOW THE AVERAGE STAFF SIZE OF OFPP SINCE ITS BEGINNING. (SEE ATTACHED CHARTS).

I BELIEVE THAT THERE ARE GOOD REASONS TO SUPPORT THE PRESIDENT'S REQUEST FOR AN INCREASED BUDGET FOR THE OFFICE OF FEDERAL PROCUREMENT POLICY FOR FISCAL YEAR 1988.

1. THE NEED FOR OFPP CONTINUES. THE PURPOSES FOR WHICH THE OFFICE WAS CREATED IN 1974 -- SOME OF WHICH I DESCRIBED EARLIER-- ARE CONTINUING RESPONSIBILITIES. IN FACT, SINCE 1974, CONGRESS HAS TWICE REAUTHORIZED THE OFFICE AND ASSIGNED IT ADDITIONAL RESPONSIBILITIES.

2. OFPP PROVIDES GOVERNMENT-WIDE POLICY AND DIRECTION. EVEN BEFORE THE CREATION OF OFPP IN 1974, A DIVISION OF OMB PERFORMED MANY OF THE FUNCTIONS NOW ASSIGNED TO THE OFFICE OF FEDERAL PROCUREMENT POLICY. THERE WAS SUCH AN OFFICE BECAUSE THERE ALWAYS HAS BEEN A NEED FOR AN ENTITY IN THE EXECUTIVE OFFICE OF THE PRESIDENT TO ISSUE GOVERNMENT-WIDE DIRECTION AND RESOLVE DISPUTES BETWEEN AGENCIES PERTAINING TO PROCUREMENT. THE OFPP ACT OF 1974 PROVIDED ADDITIONAL AUTHORITIES AND

RESPONSIBILITIES. THE CREATION OF OFPP HAD BEEN THE CENTRAL RECOMMENDATION OF THE COMMISSION ON GOVERNMENT PROCUREMENT.

3. OFPP'S PROGRAM TO UNIFY AND SIMPLIFY THE LAWS AND REGULATIONS PERTAINING TO PROCUREMENT NEEDS TO BE STRENGTHENED. THE PACKARD COMMISSION FOUND THAT THE PROCUREMENT SYSTEM WAS OVER-REGULATED. IT RECOMMENDED THAT IT BE DE-REGULATED AND SIMPLIFIED. IT RECOMMENDED A SINGLE STATUTE TO REPLACE THE OVER 4000 PROVISIONS OF LAW THAT EFFECT THE PROCUREMENT PROCESS. IN EXECUTIVE ORDER NO. 12352, THE PRESIDENT INSTRUCTED OFPP TO DEVELOP SUCH A STATUTE. THAT IMPORTANT AND DIFFICULT WORK NEEDS TO CONTINUE.

WITH REGARD TO REGULATORY REVIEW, OFPP'S AUTHORITY SINCE 1974 HAS PRINCIPALLY CONCERNED THE REGULATIONS THAT IMPLEMENT THE LAWS PERTAINING TO PROCUREMENT. ALTHOUGH THE PRINCIPAL REGULATIONS OF PROCURING AGENCIES HAVE BEEN CONSOLIDATED INTO THE FEDERAL ACQUISITION REGULATION (THE FAR), IT APPEARS THAT THE INITIAL SUCCESS OF THE UNIFICATION HAS BEEN UNDERCUT OR DILUTED SOMEWHAT IN THE SUPPLEMENTING ISSUANCES OF THE PROCURING AGENCIES. CERTAINLY, THE FAR COULD BE SIMPLIFIED. WE HAVE RECENTLY INITIATED A REVIEW OF THE FAR PROCESS. WE INTEND TO CAREFULLY REVIEW RULES THAT ARE BEING DEVELOPED AS WELL AS THOSE THAT ARE PROPOSED IN THE COUNCILS OF THE DEFENSE AND CIVILIAN AGENCIES. WE WANT TO ENSURE THAT THEY ARE CONSISTENT WITH EXISTING PROCUREMENT POLICIES AND WITH LAW. TO THE EXTENT THAT WE HAVE RESOURCES, WE WILL ALSO LOOK AT THE EXISTING REGULATIONS PERTAINING TO PROCUREMENT, INCLUDING THOSE ISSUANCES THAT PURPORTEDLY IMPLEMENT THE FAR.

4. MY PROPOSED AGENDA OF NEW ACTIVITIES FOR OFPP REQUIRES THE ADDITIONAL RESOURCES REQUESTED. IN ADDITION TO THE ABOVE, THAT AGENDA INCLUDES:

-RESCINDING THOSE REGULATIONS OR REGULATORY PROPOSALS THAT ARE INCONSISTENT WITH EXISTING POLICY;

-PROPOSING RESCISSION OF LAWS THAT ARE INCONSISTENT WITH SOUND PROCUREMENT OR MANAGEMENT POLICIES;

-WORKING CLOSELY WITH OTHER EXECUTIVE BRANCH AGENCIES IN FORMULATING VIEWS ON LEGISLATION PERTAINING TO PROCUREMENT; REVIEWING TESTIMONY OF EXECUTIVE BRANCH OFFICIALS ON LEGISLATION CONCERNING PROCUREMENT; REVIEWING EXECUTIVE BRANCH LEGISLATIVE PROPOSALS PERTAINING TO PROCUREMENT;

-PROPOSING LEGISLATION THAT WILL ENHANCE THE ABILITY OF OFPP TO HAVE INNOVATIVE TESTS APPROVED BY CONGRESS;

-SEEING TO THE REAUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF FEDERAL PROCUREMENT POLICY FOR FISCAL YEARS SUBSEQUENT TO FY87;

-ESTABLISHING A GOVERNMENT-WIDE PROGRAM FOR THE ENHANCEMENT OF THE PROCUREMENT WORKFORCE; AND

-CONSOLIDATING REVIEWS BY THE EXECUTIVE OFFICE OF THE PRESIDENT OF PROCUREMENT REGULATIONS AND ATTENDANT PAPERWORK.

SUMMARY

THE ACQUISITION PROCESS -- WHICH IS RESPONSIBLE FOR EXPENDITURES OF MORE THAN $200 BILLION ANNUALLY -- NEEDS TO BE

MADE AS EFFECTIVE AND EFFICIENT AS POSSIBLE PARTICULARY WHEN FACING REAL DECREASES IN OUR DEFENSE EXPENDITURES. WE ARE PARTICULARLY CONCERNED THAT THE PROCESS BE SIMPLIFIED AND BE MADE MORE COMPETITIVE, AS RECOMMENDED BY THE PRESIDENT'S BLUE RIBBON COMMISSION ON DEFENSE MANAGEMENT -- THE PACKARD COMMISSION. WITH YOUR HELP AND THE CONTINUED COOPERATION OF THE EXECUTIVE AGENCIES, I BELIEVE THAT OFPP, WHEN ADEQUATELY STAFFED, CAN SERVE AS A PRINCIPAL AGENT FOR CHANGE IN THE PROCUREMENT REFORM PROCESS.

I WOULD BE PLEASED, MR. CHAIRMAN, TO RESPOND TO ANY QUESTIONS YOU OR THE OTHER MEMBERS OF THE SUBCOMMITTEE MAY HAVE.

JUSTIFICATIONS

APPROPRIATIONS LANGUAGE

1988 Regular Appropriations

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy including services as authorized by 5 U.S.C. 3109; $2,489,000.

OFFICE OF FEDERAL PROCUREMENT POLICY

Mission Statement

The Office of Federal Procurement Policy, established in 1974, is responsible for promoting economy, efficiency and effectiveness in the procurement of property and services by and for the Executive Branch.

SUMMARY TABLES

Budget Overview
(in thousands of dollars)

	Actual 1986	Estimated 1987	Estimated 1988
Budget Authority	1542	1632	2489
Obligations	1492	1632	2489
Outlays	1280	1623	2485

Personnel Overview

	1986	1987	1988
Full-Time Equivalent Positions	17	22	32

SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

	1986 actual	1987 est	1988 est
Program by activities:			
Procurement Policy	1492	1632	2489
Financing:			
Unobligated balance lapsing	50	---	---
Budget authority	1542	1632	2489
Relation of obligations to outlays:			
Obligations incurred, net	1492	1632	2489
Obligated balance, start of year	144	319	328
Obligated balance, end of year	-319	-328	-332
Adjustments in expired accounts	-37	---	---
Outlays	1280	1623	2485

Object Classification (in thousands of dollars)

	FY 86 Actual	FY 87 Estimate	FY 88 Request
Personnel Compensation:			
Full-Time	669	955	1,657
Other Than Full-Time Permanent	64	56	--
Other Personnel Compensation	22	25	20
Special Personal Service Payments	54	--	25
Total Personnel Compensation:	809	1,036	1,702
Personnel Benefits:	73	99	256
Travel and Transportation of Persons	6	22	30
Rental Payments to GSA	213	215	248
Communications, Utilities, and Miscellaneous Charges	49	75	82
Printing and Reproduction	3	20	28
Other Services	272	126	94
Supplies and Materials	11	15	20
Equipment	56	24	29
Total	1,492	1,632	2,489

COST JUSTIFICATION BY OBJECT CLASS

Personnel Compensation (Object Classification 11), $1,702,000

This 1988 request represents an increase of $666,000 over the 1987 estimate and reflects a major step in the Administration commitment to "reinvigorate" the office. It will permit this office to hire seven additional staff, over the current authorized strength of 25. The new staffing request of 32 positions is still

substantially less than the total amount of authorized staffing at the beginning of this Administration, as indicated below.

1980	1981	1982	1983	1984	1985	1986
45	42	41	41	41	25	25

Once fully staffed, the Office will be in position to fulfill its responsibilities in the procurement regulatory area - including the review of agency draft supplementary regulations. Increased staffing will also permit greater involvement in the development and review of procurement legislation and related Administration initiatives.

Personnel Benefits (Object Classification 12.1), $256,000

This request is for OFPP's mandatory contributions to the Civil Service Retirement Program, Federal Employee Retirement System, Medicare Program, the Federal Employee Life Insurance Program and the Federal Employees' Health Program. It includes $67,000 to meet the new FERS requirements.

Travel and Transportation of Persons (Object Classification 21), $30,000

Travel was significantly curtailed during the past few years due to budgetary constraints and reduced staff. This request. reflecting an increase of $8,000 over FY '87, will permit the office to promote the Administration's procurement initiatives throughout the procurement community - and to regain the national visibility OFPP once enjoyed as the principal procurement policy organization of the Executive Branch.

Rental Payments to GSA (Object Classification 23.1), $248,000

The rental rates for both Old and New Executive Office Buildings will increase substantially in FY '88. This request reflects those increases as well as a slight increase in NEOB office space to accommodate the additional staff members. Of the $248,000 request, $25,000 is for usage charges and the remainder is for rent.

Communications, Utilities and Miscellaneous Charges (Object Classification 23.3), $82,000

This request includes payment of OFPP's pro rata share of the Executive Office of the President telephone switchboard. telephone service, after hour utilities and postage. The requested amount is approximately the same as FY '87, adjusted for inflation.

Printing and Reproduction (Object Classification 24), $28,000

This request covers the cost of publishing in the Federal Register; work done by the Government Printing Office (GPO), and other work which cannot be handled by the Office of Administration printing facility. The estimate reflects an increase over prior years to permit publication of large numbers of procurement regulatory assessments as well as OFPP's annual report.

Other Services (Object Classification 25), $94,000

This request includes charges for computer time-sharing, personnel security investigations, training and other related services. It represents a reduction of $32,000 from FY '87.

Supplies and Materials (Object Classification 26), $20,000

This estimate is for the purchase of normal office supplies and additional work materials. It reflects the costs of supplies and materials associated with bringing more staff members on board.

Equipment (Object Classification 31), $29,000

This request is for the purchase of word processing and related equipment for new and current employees, and to permit greater integration of OFPP into the OMB information processing system.

Summary of Increases and Decreases
from 1987 to 1988
(In thousands of dollars by object classification)

Fiscal Year 1987 Estimate				1632
Increases:				
Personnel Compensation	+	666		
Personnel Benefits	+	157		
Travel	+	8		
Rental Payments to GSA	+	33		
Communications, Utilities and Misc.	+	7		
Printing	+	8		
Supplies	+	5		
Equipment	+	5		
			+	889
Decreases:				
Other Services	-	32		
			-	32
			+	857
Fiscal Year 1988 Request				2489

Personnel Summary

	1986 actual	1987 est	1988 est
Total number of full-time permanent positions	25	25	32
Total compensable workyears			
Full-time equivalent	17	22	32
Full-time equivalent of overtime and holiday hours	0	0	0
Average ES salary	$63,386	68.984	70.126
Average GS grade	11.82	11.94	12.50
Average GS salary	$42,447	$42.484	$45.647

NOTE: No funds were utilized for consultants in FY 86 nor are any expected to be used for this purpose in FY 87 or FY 88.

Mr. BEDELL. Yes, sir; I will. Mr. Chairman, I am joined here this morning by Dr. Allan Burman——

Senator DECONCINI. Hi, Mr. Burman.

Mr. BEDELL [continuing]. And Mr. David Baker, who are my two chief colleagues down at OFPP.

Senator DECONCINI. Mr. Baker, welcome.

Mr. BEDELL. You have already put my prepared statement in the record. Let me just summarize my statement, make a few comments, and then answer whatever questions you have.

When Jim Miller was going through the confirmation process to become the Director of the Office of Management and Budget, he was counseled by many in the Senate and several in the House that one of the things he needed to do was to restore the Office of Federal Procurement Policy to an effective role in the procurement process within the executive branch.

He took that to heart, and after I finished my tour at the Office of Information and Regulatory Affairs in OMB, I agreed to come to OFPP, in part because the Director was very much committed to carrying out an aggressive procurement reform program.

As I said in my confirmation hearings last fall, the first thing I wanted to do was to see if we could put together an agenda for OFPP to build consensus within the Executive Office of the President, with Congress, and then within the executive branch generally, and that is what we have been hard at work doing for the past 2 or 3 months now.

There are several new things that we are interested in doing this coming year. No. 1 is, while OFPP's statutory authorities have always been directed at the regulatory process as it pertains to procurement—always focused on the regulatory issuances of the procuring activities—actually, we have done very little in that area in the past 12 years that OFPP has been here. What I would like to do is to establish a regulatory review process for procurement rules very similar to the type of procedures we have in OMB relating to regulations of the Environmental Protection Agency and Occupational Safety and Health Administration and the like; to make sure that these rules coming out are consistent with the rules of other procuring activities; to make sure that they impose the least burden possible; and to make sure that the paperwork implications of these rules make sense.

As you know, the paperwork elements and the regulatory elements of the procurement process never have been addressed, certainly, as tightly as they have under Executive Order No. 12291, because OFPP's efforts have been to try to unify all of those regulations into a single body of regs. And they have done that now in the Federal acquisition regulations.

But no real effort was made at that time to try to simplify those regs and to reduce the paperwork associated with them. That is what needs to be done with regard to the 30,000 pages of regulations that we have in existence right now, in addition to all the implementing regulations of the departments and agencies.

We need to look at the existing base and we need to look at the new regs that are coming out of the agencies and make sure that they have the least amount of paperwork and they are as consistent and simple as possible.

Those regulations right now impose about 700 million hours of paperwork every year on people who wish to do business with the Federal Government. At $40 an hour for each of those 700 million hours, that is about 28 billion dollars' worth of paperwork that our process requires be submitted by people who want to do business with the Government.

If they do not want to do business with the Government, the Government loses the opportunity for competition from those people. So if we can simplify those regs and reduce the paperwork associated with them, we can foster competition as much as by any of the statutory changes that we will be proposing as well.

We need to have an effective regulatory review role at OFPP. I feel, looking at its legislative history, that that is what was intended for it all along. What I would like to do is bring my experience and that of my colleagues here from OIRA to look at the Defense and the GSA rules very strictly.

Another initiative that we have going is to draft a unified, simplified statute for procurement. As you know, there are two basic statutes right now, the Armed Services Procurement Act of 1947, as I recall, and the Federal Property and Administrative Services Act. The first applies to defense and the latter applies to the civilian agencies.

There are, also, about 4,000 other legislative provisions that affect the procurement process in one way or another. Many of them are riders to appropriations acts. Last year, there were about 12 different statutes concerning procurement that were passed that had a myriad of different ideas in them.

The Commission on Government Procurement 15 years ago recommended that there be a unified statute. Senator Chiles and Senator Cohen have tried to do that over the years and it has proven to be very, very difficult.

The Packard Commission last year also recommended a unified statute, and the President has directed OFPP to draft such a bill and to present it within the executive branch and then to Congress. We are fast at work doing that now.

Senator DECONCINI. What does that bill include?

Mr. BEDELL. It will cover all aspects of procurement. It will set forth the procedures by which bids are submitted. It will set forth the conditions that would authorize competitive negotiations, as opposed to sealed bids, as opposed to sole source.

It will deal with all aspects of the procurement process and combine them into one—trying to do that in a way that will take the elements of the procurement process and break them into modules or components.

It has seemed to me that in the past efforts to enact a single, simplified statute have failed not only for jurisdictional reasons, which are

significant, but because some parts of the bill were not as acceptable as some of the other parts, and so nothing occurred because some of those parts were too difficult.

If we address this in a modular fashion, it may be that we can get some of those pieces through. Those that require more work—and many of them are quite complex and controversial—we can leave to another day and continue to work on them.

But if we can start making progress in that way, eventually, and hopefully in the not too distant future, we will be able to come up with a single statute so that someone who wishes to do business with the Government does not have to keep his books differently if he has a contract with the Department of Energy as opposed to the Department of Defense or GSA. That they will be able to start from one source for the procurement law that applies.

Then, they can go to one set of regulations to understand how that is implemented in greater detail, and then they do not have to fight their way through six intervening, so-called implementing regulations in order to find out how they have to submit their bids and how they are going to be evaluated and how they are going to be carried out.

We have a requirement from the President to come up with that bill. We are hard at work on it now and hope to have it up during the summer. The President is going to say in his management report that is coming out soon that it will be up to Congress by August. We hope to be able to spend a good bit of time trying to explain that and see what the views of the interested parties are.

We have some other legislative proposals in the works as well. For instance, we have now the authority to issue or to submit to Congress test procedures related to the procurement process, so that if we think there are some good ideas we can propose them. If it requires a waiving of statutes, then Congress must, by joint resolution, agree to waive those statutes. The President then signs it and it becomes law.

We have submitted three of those in the past several years. None of them has resulted in a joint resolution. The only thing we have been able to do is to waive the application of existing regulations, but we have been unable to submit proposals that affect any statutes.

It seems to me that if we could develop some tests that would involve the waiving of statutes, if we had a process that would ensure the consideration of those plans and tests on the floors of both the House and the Senate——

Senator DECONCINI. Mr. Bedell, let me interrupt you because Senator Proxmire is here, and if he has a statement or anything he wants to put in he may wish to do so now. We started without you, sir. Would you like to submit a statement?

Senator PROXMIRE. No; thank you very much, Mr. Chairman. I do have a couple of brief questions.

Senator DECONCINI. OK, go ahead, or do you want to wait until he is finished?

Senator PROXMIRE. I appreciate that. You are very accommodating, Mr. Chairman; you always have been.

Senator DECONCINI. Do you want to go now?

Senator PROXMIRE. You are my favorite Senator and Arizona is my favorite State, except Wisconsin.

Senator DECONCINI. I understand that.

Senator PROXMIRE. I would appreciate it if I could, yes.

I would like to just ask you, sir—I am struck by something that I am sure the chairman has been considering, too, but it bothers me. OMB should be setting the pace in holding down spending. Certainly, you have conscientiously called for a cut in spending, and I agree with that.

However, it seems that OMB itself for its own budget is asking for more money, substantially more, much more than I had thought you would be. You are asking, overall, for nearly 10 percent, is that not right?

Senator DECONCINI. Senator Proxmire, we are holding off on OMB, as the Director is down at the White House.

Senator PROXMIRE. All right.

Senator DECONCINI. So we went out of sequence here with Mr. Bedell.

Senator PROXMIRE. Well, then, let me ask about the Federal Procurement Agency, Mr. Bedell's own shop.

I understand you are asking for about a 10.8-percent increase.

Mr. BEDELL. No, sir; in percentage terms, it is about a 50-percent increase.

Senator PROXMIRE. How much?

Mr. BEDELL. About a 50-percent increase from last year's level.

Senator PROXMIRE. A 50-percent increase?

Mr. BEDELL. Yes, sir.

Senator PROXMIRE. Oh, oh, oh.

Senator DECONCINI. You are asking my first question to explain why.

Senator PROXMIRE. He was answering that question?

Senator DECONCINI. No; I have not asked that question yet.

Senator PROXMIRE. Oh, I see.

Senator DECONCINI. But I think you are about ready to.

Mr. BEDELL. But I was anticipating the question, trying to explain what I would do with the requested increase and I had described the fact that I think there is a need for a stern regulatory review operation at OFPP to look at the regulations and the paperwork coming out of Defense, GSA, and the civilian agencies.

In our efforts to unify the various regulations pertaining to procurement, we did not look to simplify, we did not look to reduce the paperwork, and I think that is needed. The Packard Commission recommendation which you have seen cries out for such a review process.

It complains about the overregulated, byzantine procurement process that is largely the result not of legislative complexity, but——

Senator PROXMIRE. Can you tell us in specific terms what kind of saving you expect to get from having a 50-percent increase in your own

operations? From what you say, it sounds as if this will be a very good investment for the Federal Government because we will be able to cut spending overall.

Mr. BEDELL. Well, I think it will be a very good investment for the Federal Government.

Senator PROXMIRE. Can you give us dollars and cents? This is an increase from $1.6 million to $2.5 million, roughly.

Mr. BEDELL. Right.

Senator PROXMIRE. That is a colossal increase.

Mr. BEDELL. That is an increase of about $800,000. It brings up OFPP to still below——

Senator PROXMIRE. Well, how do we know we will save $800,000 if we put that into effect?

Mr. BEDELL. Well, I cannot guarantee you any firm dollar amount, but I can tell you this—and we were talking about it before you came in—that the paperwork imposed by the Department of Defense by itself is 700 million hours per year for everybody who wishes to do business with the Government; 700 million hours is required to bid on Government contracts.

Now, if the average contract rate for DOD is $40 an hour, that is $28 billion every year that they are, in essence, paying for contractors to submit paperwork in order to bid on contracts or in response to the contracts that they let.

During this administration since 1981, we have cut the existing base of paperwork in the non-DOD area by about 600 million hours annually. That means these savings occur every year, so we have cut about 600 million hours since 1981, pursuant to the requirements of the Paperwork Reduction Act of 1980.

If we can come anywhere close just in this one area of reducing paperwork, we are going to save many, many times the amount of the $800,000.

Senator PROXMIRE. You see, the struggle the committee is in—you say you have made cuts in this administration in the last 6 years.

Mr. BEDELL. Yes, sir.

Senator PROXMIRE. And yet the DOD cost has gone right through the roof.

Mr. BEDELL. Well, the DOD budget was increasing and is now leveling out, I think. The increase is now 3 percent, the President's request for fiscal year 1988. The costs have been increasing.

Our efforts should be, as they are with the other regulatory agencies, to cut the cost of their doing business so that more of the funds that Congress and the President have requested for defense activities be used for hardware, be used for personnel, and be used for those matters which will really improve the common defense.

If we can make them operate more efficiently by reducing the amount of paperwork that they are paying for or reducing the complexity of doing business with the Government or encouraging greater competition by simpler procedures, we will save many, many times this amount of money.

Senator PROXMIRE. A prime reason for the paperwork has been in the past so that we can have the data before us so that we can control costs.

Mr. BEDELL. There is no question that much of the data is necessary.

Senator PROXMIRE. Mr. Chairman, I will not detain the witness any longer, but I think it would be very helpful to the committee if you would specify how we can cut the paperwork and at the same time have a greater degree of control over the cost of operations. I think that would be very helpful.

Mr. BEDELL. By looking at the individual transactions, I can tell you from running this program that the paperwork program for the last 3 or 4 years in my prior job—there are about 4,000 transactions every year—there are 12,000 information collection requests, total, and the total burden imposed is about 2 billion hours—now, 700 million of that relates to the defense world and it has basically been untouched because we have concentrated our efforts in bringing these regulations into uniformity.

We now need to go back and simplify it; we now need to go back and give it a hard paperwork scrub. The only way to do that is transaction by transaction by transaction and asking tough questions, but making sure that there is enough there to ensure proper audits are available.

Senator PROXMIRE. Has Mr. Packard or anybody else looked at this?

Mr. BEDELL. Yes, sir.

Senator PROXMIRE. Do they agree with you that this is a constructive way to reduce spending?

Mr. BEDELL. Yes, sir; they have urged—and concluded, first of all, and virtually every page of the Packard Commission is this way—that we have an overregulated, overcomplex, paperwork-intensive process. Layers need to be cut out.

Senator PROXMIRE. Those are generalizations, but did they specifically say cut out this, cut out that, cut out the other thing, and have a whole list of things you can cut out which will still enable us to have the kind of control and the kind of overall cost reduction we need?

Mr. BEDELL. I do not remember the Packard Commission being specific as to any of the regulations or paperwork. They found that the system itself was overly complex, overregulated. I do not remember them going through and detailing which of those were required.

I think they urged that that be done by the new defense acquisition team and by—well, they did not address us in the process either—the simplified statute.

Senator PROXMIRE. Mr. Chairman, thank you very, very much, and I apologize for interrupting. You are very gracious.

Senator DECONCINI. No problem, Senator Proxmire; glad to have you here.

I want to ask a question; I should know this, but I do not. Do you have any statutory authority to change the procurement rules?

Mr. BEDELL. Yes, sir.

Senator DECONCINI. You do. How broad is that? Take the Defense Department. What statutory authority do you have to change or alter what they are doing today?

Mr. BEDELL. I have the authority to recommend to the Director of the Office of Management and Budget, and he must take final action, to deny the promulgation of, or rescind, any rule pertaining to procurement that is inconsistent, in essence, with established policies.

Senator DECONCINI. OK, and if he takes your recommendation and does that, then what happens? Is that it?

Mr. BEDELL. That is it. He has rescinded a regulation, if that is what I have proposed and he agrees.

Senator DECONCINI. So how many has your office done over this administration, or do you know, of such recommendations?

Mr. BEDELL. I do not believe any recommendations to rescind have been made.

Senator DECONCINI. Why is that? With all the problems of procurement expressed in the press and the horror stories you read about, why has your office not made such recommendations? And I will ask the OMB Director why he has not promulgated some; maybe he has not had any.

Mr. BEDELL. Well, Jim has been there since, what, the fall of 1985.

Senator DECONCINI. Yes.

Mr. BEDELL. And he asked me if I would be interested in doing this OFPP job in the spring of 1986. I was nominated in the fall of 1986. Those clearances are long.

Senator DECONCINI. So you have not been there very long.

Mr. BEDELL. I have been there for about 4 months.

Senator DECONCINI. Who was your predecessor?

Mr. BEDELL. There was a hiatus between me and the prior, confirmed administrator, Don Sowle. Don left in January 1985, as I recall.

Senator DECONCINI. So there was a long time it was unfilled.

Mr. BEDELL. So there were about 2 years and, frankly, our appropriations in actual and in real dollars have dropped during that period. The request, while it may look large in percentage terms, is about $800,000 and would bring us up to a level still below our historical level of funding for OFPP.

One of the things Jim Miller said to me is that we have to put teeth back in that process; we have to use the authorities that we have been given. It has never been used before. I have run the regulatory program here for the administration the last 3 or 4 years, and I have known Jim much longer than that; he thought that I was the kind of person that we need to use that authority.

Senator DECONCINI. So, you are really starting almost from scratch.

Mr. BEDELL. Yes, sir.

Senator DECONCINI. You are starting all over because this office, that you now are the Director of, has just been pretty much nonfunctional.

Mr. BEDELL. Yes, sir.

Senator DECONCINI. What was it doing before you came in?

Mr. BEDELL. Well, the personnel level had dwindled to about 13 people. About one-half of those were secretarial and support staff. There are a number of coordinative functions and activities they have.

We do try to keep up with the changes to the Federal acquisition regulation, but there is really only one person who is doing that, and they were making comments and trying to be helpful and relevant to that process.

We chair several councils of procurement officials where Governmentwide procurement issues can be brought up and discussed and unified positions can be hammered out. There were a number of studies responding to several requirements that Congress had requested of OFPP over the last 2 years to look at, for example, spare parts, to look at the procurement services.

Senator DECONCINI. And you have done those sorts of things, I see.

Mr. BEDELL. We have been doing those kinds of things.

Senator DECONCINI. I am sorry I am so unfamiliar with your office. It has been awfully quiet. I am inclined to want to take the risk of appropriating more money if we could see some real aggressive action on your part, and I am not indicating mean-spirited; just some very constructive action as to what you are talking about.

Mr. BEDELL. I understand.

Senator DECONCINI. But sometimes that means bucking heads with some pretty powerful Cabinet folks that might not like to have their procurement process altered by somebody sitting over there really under OMB.

Mr. BEDELL. I think you are quite right.

Senator DECONCINI. The other thing I wanted to ask you about is the Chiles-Cohen legislation that they have been working on. Can you be a little more specific? I am not familiar with that.

Mr. BEDELL. My memory may be a little faded at this point, but I think there was a bill entitled Senate bill 5 that was introduced by Senator Chiles in the 1976–77 timeframe.

Senator DECONCINI. Oh, some time ago?

Mr. BEDELL. Yes, sir.

Senator DECONCINI. Oh, OK, nothing recent.

Mr. BEDELL. Well, he has continued to urge the basic thrusts of that.

Senator DECONCINI. Is that the Paperwork Reduction Act?

Mr. BEDELL. No.

Senator DECONCINI. That is something else?

Mr. BEDELL. It was a proposal.

Mr. BAKER. A proposed procurement statute.

Senator DECONCINI. It was a procurement statute?

Mr. BAKER. Yes, sir.

Senator DECONCINI. Is that going along these same lines that you are moving for now?

Mr. BAKER. Yes, sir.

Senator DECONCINI. You think that was back in 1976?

Mr. BEDELL. It was in that timeframe. I have talked to Senator Chiles about it and he continues to be interested in this and procurement is a major concern for him, and he has retained jurisdiction over OFPP's reauthorization for appropriation this year in his subcommittee in Senate governmental affairs, and he did so because he is very interested in the future of this office and it living up to his expectations and those of others.

Senator DECONCINI. We passed the Paperwork Reduction Act.

Mr. BEDELL. Yes; you did, in 1980.

Senator DECONCINI. In 1980, yes.

Mr. BEDELL. Right.

Senator DECONCINI. Has that had any effect?

Mr. BEDELL. Absolutely. The reductions that I was talking about that have occurred since——

Senator DECONCINI. Those are a result of that?

Mr. BEDELL. Those are directly the result of that strengthening.

Senator DECONCINI. Do you have any estimate of cost savings, if any?

Mr. BEDELL. Oh, yes. We have to make assumptions as to how much it would have cost people to fill out the paperwork that has been reduced.

Senator DECONCINI. Sure; that is the only way to tell.

Mr. BEDELL. Right, and so we have to make assumptions in that regard. But the last totals that I remember—about 1 year ago—were that we had saved 600 million burden hours—that is how we calculate the savings—is how much time is not spent by Americans filling out forms.

For every hour that we can calculate, we give some assumption as to the dollar value of that hour.

Senator DECONCINI. Those are non-Government people savings?

Mr. BEDELL. Yes, sir.

Senator DECONCINI. How about in-Government people?

Mr. BEDELL. In Government, there is a commensurate savings from just that. They do not have to read it, they do not have to store it, they do not have to dispose of it, they do not have to send it to the Archives. They do not have to do all of that stuff, so it is much, much simpler.

At the same time, a lot has been done not simply to reduce the existing paperwork burden, but to get it. Another part of the Paperwork Reduction Act gave the Office of Information and Regulatory Affairs information policy responsibilities, and it did it for a very wise reason, to get away from paperwork. Computers are a very good way of doing that, and if we can get private sector computers to talk to Government computers without having to have intermediate paper, hard paper, copies, we can drastically reduce the burden and the costs.

So we have also tried to move the Government away from dealing with hard paper and into electronic means of communication.

Senator DECONCINI. One more question. Following up on what Senator Proxmire asked about the Packard Commission, will they be

brought in to look at your legislation and asked to comment on it before you send it up here?

Mr. BEDELL. The Packard Commission is going to meet again in the next month or so to evaluate how the implementation at the Department of Defense of the new Under Secretary for acquisition and his team is going and whether that was consistent with their recommendation and that was the basis for the congressional action to establish that new office over there.

By the way, we are working very, very closely with the new acquisition team trying to use our Governmentwide authorities to support them in centralizing the procurement authority within the Department of Defense.

We stay in touch with the staff and several of the members of the Packard Commission. We intend to set up briefings with them, first, to tell them about our regulatory review program and to see what their view is and whether they feel that is our program carrying out their recommendations.

Second, we hope to run our draft, an early draft of our unified statute, by them as well and to get their views and their counsel on it. The General Counsel of the Packard Commission has now rejoined the Government recently as the legal adviser to Frank Carlucci as head of the National Security Council.

Senator DECONCINI. Who is that?

Mr. BEDELL. Paul Stevens.

Senator DECONCINI. Oh, Stevens?

Mr. BEDELL. Yes; and Paul is very good. You must know him.

Senator DECONCINI. Yes, he is good; I was impressed with him.

Mr. BEDELL. And Frank Carlucci as well was a member of the Packard Commission.

Senator DECONCINI. Yes.

Mr. BEDELL. So I am hopeful that as soon as they can——

Senator DECONCINI. What is your opinion of the Board of Contract Appeals? Does it function well?

Mr. BEDELL. Well, there are several boards of contract appeals. For example, there is the General Services Board of Contract Appeals, the Armed Services Board of Contract Appeals.

Senator DECONCINI. Are you familiar with the GSA Board of Contract Appeals?

Mr. BEDELL. Yes; I am. As a matter of fact, during the continuing resolution last year, several questions arose as to continuing the life of the General Services Board of Contract Appeals.

It was originally given 3 years of authority to review bid protests for ADP acquisitions, and questions came up related to that. There were complaints from one direction saying that the board was deciding too many cases in favor of protestors, did not have a good standard of review; it did not defer at all to the——

Senator DECONCINI. Well, let me interrupt you and give you just one example, the *Sisorex* case in IRS where the contract was awarded for

$100 million for a computer system. It was protested to the Board of Contract Appeals and the IRS awarded it later to Sisorex for $48 million more.

Of course, the Internal Revenue Director, you know, said that was too bad and it was a mistake, perhaps, but they had to do it because if they did not, there would have been a public outcry as they had before when the computers got mixed up and the forms were late.

Mr. BEDELL. Right.

Senator DECONCINI. But these boards of contract appeals—you wonder if they are really worth their salt when they can go along with that, and I really was seeking your opinion of whether or not, in your view, they have worked well in the process.

Mr. BEDELL. Well, the boards of contract appeals have been around since, to my knowledge, the early 1950's when primarily the Department of Defense set them up to be tribunals to resolve contract disputes, because the Secretary of Defense did not have time to do that.

Over the years, they have worked very, very well. The complaints, and this apparently is one of them, that have recently arisen are with regard to the General Services Board of Contract Appeals.

Senator DECONCINI. Good morning, Mr. Director. Just sit down and we will be with you in about one-half an hour.

Mr. MILLER. At your pleasure.

Senator DECONCINI. No; we will be with you in just a couple of minutes.

Mr. BEDELL. With regard to the General Services Board of Contract Appeals and with regard to ADP, in my opinion we need to look very, very closely to see if the standard of review that this Board of Contract Appeals used for ADP is appropriate.

Senator DECONCINI. And that is what you are going to do?

Mr. BEDELL. Yes, sir; it is different from the other boards that have worked well.

Senator DECONCINI. I am glad to hear that.

The Senator from New York.

Senator D'AMATO. I have no questions, Mr. Chairman.

Senator DECONCINI. Senator Domenici will have a standard question that he will submit to you.

Thank you, Mr. Bedell, very much. We appreciate your testimony.

Mr. BEDELL. Thank you.

OFFICE OF MANAGEMENT AND BUDGET

STATEMENT OF JAMES C. MILLER III, DIRECTOR

PREPARED STATEMENT

Senator DECONCINI. Mr. Miller, do you need a minute or two?

Mr. MILLER. No.

Senator DECONCINI. Ready to roll, OK.

Mr. MILLER. I am at your disposal.

Senator DECONCINI. Well, we welcome you here, Mr. Miller, and we do not think we are going to keep you really long. We know you are very busy, and just a few little questions like why in the heck is your budget so much bigger than it was last year, but outside of that——

Mr. MILLER. I am in trouble already.

Senator DECONCINI. No; we are going to be easy on you today. So your full statement will appear in the record and you can summarize it for us. If you want anybody to join you up here——

Mr. MILLER. I think I am all right.

Senator DECONCINI. There are four or five of us and only one of you, so if you feel unbalanced there, have somebody come on up.

[The statement follows:]

STATEMENT OF JOHN C. MILLER III

Mr. Chairman and Members of the Subcommittee: it is a pleasure to appear before you to discuss the FY 1988 budget request of the Office of Management and Budget.

OMB's FY 1988 budget request is for $41,226,000 -- in nominal terms about 9 percent above our estimated resources for FY 1987, including our FY 1987 pay/benefit supplemental request of $703,000. Nearly all of the increase is non-discretionary: it reflects costs associated with the new Federal Employee Retirement System (FERS), the FY 1987 pay raise, higher rents for currently-occupied office space, and a rise in general administrative expenses. Exclusive of mandatory increases associated with personnel compensation and benefits, as well as office rents, OMB's requested funding increase is less than 1 percent. No increase in staff is requested.

However, Mr. Chairman and Members of the Subcommittee, I want to stress that even with this FY 1988 budget request OMB will be well below levels the agency enjoyed as late as FY 1979 -- 10 percent lower in real funding levels, with 35 (6 percent) fewer full-time personnel. This, despite substantial increases in workload (as documented in our separate submission), especially the requirements imposed on the agency by the Gramm-Rudman-Hollings deficit reduction law.

Also, Mr. Chairman, as a matter of perspective, I want to point out that while the resources devoted to OMB have diminished, by FY 1988 the resources devoted to our "sister" agencies -- those which have similar responsibilities -- actually will have grown since FY 1979: -- the Congressional Budget Office will be up 6 percent in real funding and up 11.7 percent in full-time employees, and the General Accounting Office will be up 29 percent in real funding and up 3 percent in full-time employees. My purpose in pointing this out is not to criticize resource levels for these two institutions, but to stress that the President can hardly be expected to perform the burgeoning budget preparation, management reform, and executive oversight functions for which he is held responsible if his "strong right arm" is gradually paralyzed by insufficient resources.

About 90 percent of OMB's budget is for personnel compensation and benefits (69 percent), standard level user charges (SLUC; 15 percent), printing of the President's budget and related documents (3 percent), and text and data processing support (3 percent). An additional 2 percent is for telephone service, postage, utilities, and rental of equipment. The remainder covers staff training and travel, background investigations, ADP and other equipment purchases, and office supplies.

Over the last six years, while OMB has taken the lead in efforts to make the government more efficient and more productive, it has set an example for others to follow. OMB has reduced spending for items such as travel, rental of office machines, communications, utilities, printing, ADP support, and equipment purchases by approximately $2,000,000 (or 25 percent). In addition, OMB has reduced office space occupied by staff by approximately 22 percent (or 44,000 square feet). Unfortunately, the cost to OMB for the remaining space has increased by $3,805,000 or 149 percent over the six-year period.

The only areas in which OMB's budget has increased since FY 1981 are compensation/benefits and office supplies. The increase in annual compensation/benefits is $5,658,000 (or 25 percent) and is attributable to cost of living pay increases for staff and higher costs of FERS. This, of course, has happened despite a 5 percent reduction in personnel.

As I indicated earlier, the funding increases requested for FY 1988 are non-discretionary and will not provide for any additional staff. The largest increase for FY 1988 is for personnel compensation and benefit costs. This increase of $2,002,000 -- or 57 percent of the total requested increase -- is attributable solely to FERS and annualization of the January 1987 pay raise.

Another $1,172,000, or 33 percent of the total increase, is for increased costs of currently occupied office space in the Old and New Executive Office buildings. The rate per square foot of office space in the Old Executive Office Building (OEOB) will increase from $15.04 to $31.45 (or 109 percent). The cost per square foot for office space in the New Executive Office Building (NEOB) will increase from $29.79 to $35.00 (or 17 percent). As I will discuss in a moment, we are working closely with the General Services Administration (GSA) to reduce these costs.

The remaining $349,000, or 10 percent of the total increase, is for cost increases associated with day-to-day administrative items such as printing, rental of office equipment, telephone service, supplies, ADP support and purchase of office ADP equipment.

Mr. Chairman, OMB's workload has increased steadily since FY 1981. Gramm-Rudman-Hollings, Reform 88, preparation and printing of the Management Report, and new Congressional mandates such as the infrastructure report, have all added to our duties. Yet our full-time staff, as I have noted, is 5 percent smaller than it was in FY 1981, and our FY 1988 budget, in real terms, is 7 percent lower.

As further evidence of our continuing effort to reduce Federal administrative costs, White House staff and the GSA have been negotiating over Standard Level User Charge (SLUC) rates for space occupied by staff offices in the Executive Office of the President. Subsequent to the transmittal of our FY 1988 Budget Justification, an agreement was reached which established a more uniform rate structure for the EOP complex.

GSA is preparing new cost estimates to reflect this agreement for the currently occupied space. When we are notified of OMB's new space costs for FY 1988, appropriate reductions in our budget request will be made. It is our understanding that the new rates will be approximately $28 per square foot of office space rather than the $31.45 and $35.00 rates that were assumed in our justification.

In summing up, let me put the numbers aside for a moment and make the case for OMB's budget request in human terms. I am very proud of OMB's dedicated and hard-working staff -- and justifiably so. We have top-flight people in our agency who work long hours under difficult conditions and do a superb job. Despite the budget constraints I have noted, OMB personnel have managed to increase the agency's output

without compromising the high standards of quality for which the agency is famous. But there is a limit to what you can expect from even the most self-sacrificing public servants.

For half-a-dozen years, OMB has been a model for other government agencies, showing them how they can produce more with fewer employees and less money. But we're now doing all we possibly can with what the Congress has given us. If OMB is to discharge successfully the growing number of duties we have been assigned, we must have commensurate resources.

Mr. Chairman and Members of the Subcommittee, that completes my prepared statement. I shall be happy to address any questions you may have.

BUDGET REQUEST

Mr. MILLER. Well, thank you, sir. I think I will try to handle it by myself.

First, I want to thank you and the rest of the committee for your indulgence in my coming late this morning. There was a meeting at the White House and the President wanted me to make a little presentation.

Senator DECONCINI. I understand.

Mr. MILLER. I really appreciate the chance to come in at this time. I am sure that Mr. Bedell made a very fine presentation.

Senator DECONCINI. He did; he did a good job.

Mr. MILLER. Well, let me say that OMB's fiscal year 1988 budget request is $41,226,000. It is a 9-percent increase, in nominal terms, above what we had for 1987, including the pay and benefit supplemental request of $703,000.

Now, nearly all of the increase is nondiscretionary and it reflects costs associated with the new FERS system and higher rents on occupied space in the Old EOB. They have raised the rent substantially.

Actual discretionary funding increases are less than 1 percent. I want to stress that even with this, OMB, in terms of total real resources, will be 10 percent below the 1979 level, with 35 fewer full-time personnel. This decrease has occurred despite substantial increases in workload stemming, from among other things, Gramm-Rudman-Hollings.

As a matter of perspective, I want to point out that the resources devoted to OMB have diminished. By 1988, the resources devoted to our sister agencies which have similar responsibilities—namely, the Congressional Budget Office and the General Accounting Office—will have increased. The CBO'sbudget will be up 6 percent in real funding and up 11.7 percent in full-time employees. GAO will be up 29 percent in real funding and up 3 percent in full-time employees.

My purpose in mentioning this is not to criticize them or you in any way, but to stress that the President can hardly be expected to carry out his burgeoning budget, management reform, and executive oversight functions for which he is held responsible, if his strong right arm, which OMB has been characterized as, is gradually paralyzed by insufficient resources.

I could go into details, but, as you know, about 90 percent of the budget is for personnel compensation and benefits, SLUC, the printing of the President's budget, and related documents. These are costs that are not very controllable.

We have taken the leadership in efforts over the past several years to be more productive, to set an example for others. We have had substantial reductions in our overhead and we have reduced office space, although I understand that at present we are not at the standards articulated by GSA.

We have had nominal increases. Again, the places where we have increased have gone primarily for personnel. Keep in mind OMB is a very personnel-intensive agency, as I explain in more detail in the statement which you have graciously said would be submitted for the record. I go into some of these matters in the justification.

Let me say in summary, I believe very sincerely and feel that you would get the same notion if you spent some time around the institution, that there are limits to which people can be pushed.

The people at OMB are the cream of the crop; they literally are, I believe, the cream of the crop in the executive branch. They are extraordinarily good, thoughtful, hard-working, articulate people, and they press themselves beyond all reason.

In fact, I once mentioned something to the effect that I felt that they were burned out, and I got a lot of criticism within the organization. It was like challenging them that they could not go the very last mile. Well, I can assure you they can go the last mile.

They have continued to go the last mile repeatedly, but there is a limit. They cannot continue to go beyond the last mile and there is a limit as to what they can do. I talk to people who you can tell have gone the last mile day after day, and so we cannot really expect more from them.

So I would ask you to give favorable treatment to this rather modest budget request.

Senator DECONCINI. Well, Mr. Miller, I can say that I am glad to have you here. You are always a bold, courageous soldier of the administration and I appreciate the position you are in, and if I could give you an award for boldness and courageousness, I would give it to you.

Mr. MILLER. I accept.

Senator DECONCINI. Your OMB program division, the OMB Director's office, receives the largest percentage increase over fiscal 1987 levels, 10.8 percent. Your closest competitor is information and regulatory affairs, which gets a 9.5-percent increase.

I guess it is more of a principle, and you have to live with it. I do not intend to beat up on you, so to speak, about it, but, if you were us here in Congress who continually get whacked by the Chief Executive about deficit spending and not balancing the budget and going along with the President's budget and then we see the Office of Management and Budget come up with a 10.8 percent increase, how would you explain that?

Mr. MILLER. Well, I can explain it very simply. As you know, the rents for office space in the Old Executive Office Building [OEOB] are increasing by 109 percent, to $31.45 per square foot. Since staff of the Director's office occupy most of the OMB occupied office space in the OEOB, our account shows an inordinate increase. However, for increases of OMB on a whole and for reasons that we need not go into right now, the OMB has taken hits in the past and it is again below the sister agencies in the legislative branch.

Also, sometimes you have got to spend money to make money.

Senator DECONCINI. And you think that this is what you are doing?

Mr. MILLER. I am absolutely convinced of that. We have, in the management area, saved billions and billions of dollars. We do that every year and could do more of this with additional resources. These savings do not show up on a line as an offsetting receipt in the OMB budget. If it did, OMB would be a huge moneymaker, but we can, and we do, realize substantial savings.

When we take agency accounting systems and make them compatible so the machines can communicate with each other, it saves a lot of money. In addition, the credit reform package will save a lot of money.

Senator DECONCINI. That is true.

Mr. MILLER. And it takes people to do that.

CUSTOMS

Senator DECONCINI. How do you explain, then, that you cut Customs, which raises money, by about 1,700 positions, and that is one of the better revenue-producing agencies in the Government and you do not apply that same philosophy to their budget?

Mr. MILLER. Well, as you know, the Customs budget is pretty complicated.

Senator DECONCINI. Yes, sir.

Mr. MILLER. We have had a difference of opinion going back several years prior to the time I came to OMB, regarding the appropriate size of the Customs Service. The Customs Service does generate revenue, but it tends to be very much a function of aggregate economic activity, rather than the amount of funds that go to the Customs Service.

I am not denying that they generate——

Senator DECONCINI. Well, do you know that for a fact that if you invest more in Customs, you do not collect more?

Mr. MILLER. Well, the IRS——

Senator DECONCINI. I do not know that for a fact.

Mr. MILLER. Well, that is an assertion that is made. We have not seen any documentation of that.

Senator DECONCINI. I have not either.

Mr. MILLER. IRS has documented that if you add additional resources you will have an increase in revenues of approximately 9 to 1. As a result, we have increased resources for IRS.

Senator DECONCINI. Yes; you did.

Mr. MILLER. But, basically, the situation is a little different, in terms of the generation of revenue, between the two.

DRUG PROGRAM

Senator DECONCINI. You know, Mr. Miller, the biggest embarrassment that I think your administration has is the abandonment of the key parts of the Anti-Drug Act that we passed last year. You and I talked about this, along with Senator D'Amato and others, at the full committee.

As you know, you have eliminated the State and local drug law enforcement assistance. You have cut drug education one-half. You have eliminated the drug treatment money authorized in fiscal 1987. You have slashed the Customs Air Interdiction Program by 50 percent and you have cut international narcotics matters by 19.6 percent out of the State Department.

I know you have your arguments. You say, gosh, we are spending more on drug enforcement now than we did 2 years or 3 years ago.

Mr. MILLER. Fifty percent.

Senator DECONCINI. Fifty percent more.

Mr. MILLER. Yes.

Senator DECONCINI. And yet when the President says that we have a war on drugs, when he says—and I do not have the quote here, but about 1½ years ago when he was getting ready to meet with President de la Madrid, he said that drugs were the No. 1 concern of his administration, along with national security,.

When he signed the bill last year, he made a commitment to the American public to commit all the resources of this country to do something about it. It seems to me this is not following that commitment.

Have you had a chance to talk to the President about this drug bill and what your budget does to that? I mean, does he know firsthand—if I got a chance to ask him, would he say yes, I know exactly what I have done; I have cut this, or cut that because we cannot afford it?

Mr. MILLER. Well, No. 1, within the past 30 minutes he articulated his views about what the budget is in the overall drug area. He knows what it is. Second, when we prepared the budget, we went over each of these items with him and he agreed.

Keep in mind that——

Senator DECONCINI. When you went over it, you explained to him that you were cutting back from what was authorized and projected for 1988?

Mr. MILLER. Yes; but it is consistent with what he had asked for when he sent his budget proposal up on drugs, which was a 50-percent increase. The President's emphasis in the war on drugs was, for the first time, to put a lot of resources on the demand side, rather than on the supply side.

Senator DECONCINI. Yes.

Mr. MILLER. In terms of emphasizing the demand side, the idea was to involve mediating structures such as families, friends, churches,

unions, any kind of organizations to try to push "just say no." The purpose of this program is to push down the consumption and the demand for drugs. Simply put, to reduce the demand for drugs.

But he said we need more resources and he had a $1 billion proposal which would have raised funding from the $1 billion it was in 1981 to the $2 billion it was in 1986 to another $1 billion in 1987.

Now, of course, Congress passed an appropriation, an authorization of budget authority, of about $4 billion, some of which would be paid out in 1988, some of which was to buy aerostats, airplanes, fixed radar installations, all of which arguably, are one-time expenses which you do not have to buy again.

But keep and bear in mind that even under the President's budget, even though the budget authority asked for in 1988 was about the same as the President's proposal in 1987, outlays will rise from 1986 to 1987 and will rise from 1987 to 1988.

WAR ON DRUGS

Senator DECONCINI. I understand. That is just a fundamental disagreement we have, I guess. Some of us up here overuse the term "war on drugs" so much. As Chief of Police Gates of Los Angeles, a 20-year veteran there, says, we have never had a war on drugs in this country because when you have a war on drugs, you commit your military resources, your civilian resources, and you go after and conquer some objective.

The reason I ask you is not for embarrassing remarks or to put you on the spot. I am concerned that the President was so sincere in his statement, which I have a copy of in my office and I read with great joy, applauded him, and wrote him a letter. When he signed that bill, I was invited, but I could not be here for it.

This was such a commitment and then when his budget comes, to me, it is such a disappointment to see it reduced. And you play such a major role in that, and I realize there are limits on what you can spend. But there does not seem to be any limit on what we can increase your office by, or foreign assistance by, or some other program that seems to get the ear or the personal attention of either the President or yourself or somebody there, even defense with a 3-percent increase above inflation.

It just is very difficult for me to accept it and I just have to tell you that. You have explained it. It is just not going to go away as far as I am concerned and we are going to do all we can to try to restore that within the budget process here.

Mr. MILLER. Could I say, Mr. Chairman, I think it is important for us to keep talking about these things. We have talked in your office a couple of times and, have had a spirited correspondence about these issues and a number of the details.

Senator DECONCINI. Yes; we have.

Mr. MILLER. I think it is important for us to keep talking about it.

Senator DECONCINI. I agree.

Mr. MILLER. I think that we are on the same wave length. I have three teenage children and drugs are the last thing in the world I want them to experience.

Senator DECONCINI. Sure.

Mr. MILLER. But at the same time, I think we can marshal our resources. One of the disappointments, frankly, is that State and local governments do not spend very much on drug abatement. The amount the Federal Government spends on drug enforcement, as a proportion of its enforcement resources, far exceeds what States and localities do.

Senator DECONCINI. Yes; but you zeroed out the State and local programs, which was a match to get them to put up money, and you would have some actual benefit coming from that to encourage them. Maybe they would get used to it; or maybe they would become more committed.

Mr. MILLER. Well, the idea was to buy in, to get them started.

Senator DECONCINI. That is right, and you wiped it out.

Mr. MILLER. Well, we think 1 year was enough to get them started and we think that they ought to bear a bigger responsibility.

Senator DECONCINI. Well, I agree they should. I cannot argue with that.

Mr. MILLER. Yes.

Senator DECONCINI. My point is that, if we can go to the Moon and do the great things that this country has done and have a President that is so committed—and I believe in his heart and his mind he is—it just troubles me that the administration, whether it is DOD dragging its feet on transferring one or two little airplanes over to Customs or the Coast Guard, or it is the Office of Management and Budget saying that we cannot afford to spend the money here says that we cannot afford it if we really are committed.

Mr. MILLER. Well, let me just say one other thing if I can, Senator. I know that you want to move on to other things. We may disagree about the total funding, but I think we want to make sure that those funds which are spent, are spent in the most effective ways.

Senator DECONCINI. I agree, I agree.

Mr. MILLER. I want to work with you and others to make sure that we get the job done, with the maximum output for the dollars we have to spend.

Senator DECONCINI. Yes; and I want to compliment you at the same time I am getting after you, and hopefully it will be interpreted by this record, that you are willing to go ahead with what Congress mandated regarding some aircraft transfers, even though you and your committee there, the policy board, had some reservations about it.

Mr. MILLER. Yes.

Senator DECONCINI. And hopefully we did not make a mistake and if we did, I will be one who will stand up and say that you and Attorney General Meese were willing to move ahead on it when there was a lot of foot dragging.

Mr. MILLER. Right.

Senator DECONCINI. I would be glad to yield to my friend from New York.

Senator D'AMATO. Thank you, Mr. Chairman.

Senator DECONCINI. He may have a question or two on that subject matter.

BATTLE AGAINST DRUGS

Senator D'AMATO. Mr. Chairman, I think you have touched on it well. I do not question the President's sincerity. As you have pointed out, I think he is tremendously concerned and sincere about our battle against drugs.

Certainly, our First Lady, if there is any one person who has done more to arouse the public consciousness on the problem of drugs, I do not know who that person is. Nancy Reagan, if she has done anything in helping this country—there have been two things; No. 1, the battle against drugs; and, No. 2, getting Don Regan the heck out of there. I think she should be commended for both of them. I put that second one in as an aside.

Now, having said that, maybe the problem and the reason we get into these areas of deferring $32 million for the air maintenance program or of asking for a delay, which raises other questions which I am not going to raise now, is because it may be a war that we cannot win, or certainly not totally win.

And it becomes so difficult and is so many sided and has so many various twists and turns to it as it relates to international relationships, as it relates to education, rehabilitation, law enforcement. All of them are difficult, but to really win the war, it may be well beyond our ability and maybe we do not want to admit that.

Maybe that is why some people even stay away from the issue because it just seems to be so difficult. You are talking about individual attitudes and what they countenance and what they do not.

But I have to say that it seems to me that we are almost giving up on it, and that is not to say that we have not appropriated more money. I do not think it is just a Federal responsibility, but certainly the Federal Government has got to demonstrate, if there is any hope of motivating people, that we have got to become really concerned.

We do not have a good educational model, not one, that we can demonstrate. So when you are concerned and cut the educational funding from $200 million to $100 million, which is, I understand, still $100 million more than we got last year—instead of doing that, it would seem to me that you would say we want to set out certain criteria for a model education program.

There is no real model education and prevention program in the whole country, and I have sat with the education people and asked them to see if they could come up with one. It seems to me we should not just sit back and say that local government should do something. We should develop the kinds of pilot programs and projects that work and say we will fund you and work with you in this.

It is an elusive, difficult opponent that we have; it is multifaceted, multiheaded. And I can see you have got your job; you have got to come down to a Gramm-Rudman target. I voted for that turkey, but maybe it is a discipline that we need to try to get us to curtail spending.

I do have certain reservations about it and its application to certain of these cuts as it relates to personnel, and Senator DeConcini touched on it.

You have got the drug enforcement agents who are out there working to the limit, to the limit, and yet the Drug Enforcement Administration has been curtailed over the years in their spending—and I know you are shaking your head back there—in this budget they have not been, but over the years.

I have seen these guys out there; I have seen them working 24- and 48-hour tours, and people are right on the verge of breaking. So you gave them a little bit of relief. That is fine; I am thankful for that.

When you cut back on Customs, you are sending the wrong signal; it is the wrong signal. The dollar cuts that you are achieving really are minuscule and they do great damage to the psychology of this whole program and what we are attempting to do.

And so I think we are attempting to build up so that we become a real factor in this war; right now, we are not. When you talk about local government not doing enough, they cannot even find enough jail space to put them in, all right? They really cannot.

You take a look at their budgets and what it costs to maintain prisons and jails—and about 50 to 60 percent of the guys who are in prison are directly or indirectly related to the drug problem or they find themselves in prison as a result of their going out and holding up people because they are drug addicts. It is a tremendous and incredible problem.

I am just simply going to say that these cuts that have been recommended as it relates to Customs and to other areas that touch directly or indirectly on drugs, I think, you have got to approach with a great deal more sensitivity than you do any others.

The proposed cuts really do tremendous psychological damage, and I then find myself saying, well, you know, we are not really committed to the battle or to the war.

I am not going to go into the $32 million for the air program, whether you are deferring it or not deferring it. I hope you have a sense that Congress is not going to approve that and that you will provide that $32 million next year, in addition to the $86 million you have requested, because otherwise we are not going to be able to maintain that air interdiction program.

So I just thought I would make those observations, Mr. Chairman.

Senator DECONCINI. Thank you.

Would you care to respond, Mr. Director?

Mr. MILLER. Let me say that the administration does spend money on the drug problem. However, you cannot equate input with output—but

we do spend an enormous amount of time on this issue. On the Drug Policy Board, we have meeting after meeting, working on how to best organize the resources, getting information out of the field as to what is happening and how best to rearrange our resources to meet that challenge.

It is an extraordinarily difficult problem, and it may be that 20 years out, we will still have drugs.

Senator D'AMATO. We probably will.

Mr. MILLER. But that is not to say we should not have the goal of eliminating drugs. As you know, it is very difficult getting people off drugs when you are in an environment in which people are accustomed to drugs.

The price elasticity is very small. In other words, they will pay enormous amounts rather than go off drugs; they are hooked. That is a wrenching process that is going to take a lot of time and it may not be that we will see an enormous amount of progress right away. But I agree with you; we have got to stick with it.

Senator DECONCINI. Do you have any other questions?

PREPARED STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. No; Mr. Chairman. I have a statement for the record.

Senator DECONCINI. Without objection, it will appear.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE D'AMATO

Mr. Chairman, I look forward to hearing from James C. Miller III, Director of the Office of Management and Budget, particularly with respect to the administration's plans for the war on drugs.

Yesterday I was in New York with the founders of Daytop Village and Hale House, two of the leading drug prevention and rehabilitation programs. I wish Mr. Miller could have been there. I wish he could have heard about the needs of newborn babies born to heroin- and cocaine-addicted mothers. I wish he could have heard about the waiting lists that have doubled in the past few months because of crack.

Later, I will have several questions on OMB's plans for our antidrug programs.

For now, I only indicate that I am optimistic in one area at least. It seems we may get a commitment from Mr. Miller with respect to funding for the Customs Air Interdiction Program.

For the record, I note several areas where OMB proposes cutting the budgets of antidrug programs below the levels provided for in last year's Anti-Drug Abuse Act.

The Customs Service.—The fiscal year 1987 budget proposal for the Customs Service contains the following: an absorption of $21.5 million for new retirement plan costs and the 3-percent pay increase; a rescission of $38.9 million and 1,485 positions; and a delay in the obligation of $32.1 million for the Air Interdiction Program.

The fiscal year 1988 budget proposal contains: an appropriation level of $899.9 million, a $120 million reduction from the $1.019 billion provided by the fiscal year 1987 continuing resolution; a reduction in the Customs forfeiture fund from $18 million in 1987 to $10 million in 1988; and a reduction of 511 positions.

Emergency drug treatment funds.—OMB has proposed spending $163 million in emergency drug rehabilitation money over 2 years, rather than providing the complete amount this year, as Congress intended.

Assistance to State and local drug law enforcement agencies.—OMB justifies its proposal to eliminate the $225 million program of grants to State and local law enforce-

ment agencies because that is a one-time program. Yet the Anti-Drug Abuse Act the President signed says: "There are authorized to be appropriated $230 million for fiscal year 1987, $230 million for fiscal year 1988, and $230 million for fiscal year 1989."

Drug prevention and education programs.—Section 4111 of the Anti-Drug Abuse Act says that, for the Department of Education drug prevention program: "There are authorized to be appropriated $200 million for fiscal year 1987 and $250 million for each of the fiscal years 1988 and 1989."

Instead of the $250 million authorized for 1988, or even the $200 million appropriated for fiscal year 1987, OMB proposes only $100 million, saying that much of this year's $200 million represents one-time startup costs, planning, and materials purchases.

The drug bill specifies several important programs and activities that involve much more than one-time costs. A few that will suffer under the proposed cuts are: family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use; training in drug and alcohol abuse prevention for teachers; efforts in schools to identify and discipline drug and alcohol abusers; and programs and activities to prevent substance abuse among student athletes.

If we are serious about keeping more drugs out of this country, and if we really intend to strengthen drug law enforcement, prevention, and treatment programs, then we in the Congress must insist on a different budget. We must insist on one that continues the momentum begun in the Anti-Drug Abuse Act.

Thank you, Mr. Chairman.

TWO-YEAR BUDGETING

Senator DECONCINI. Senator Domenici will have a question on 2-year budgeting that he will be submitting, also.

Senator D'AMATO. Let me for the record, Mr. Chairman, take this opportunity to say that Mr. Miller's staff and his people—Larry Burton, in particular, and Jack Carley and others—have been very cooperative in this effort, with the committee, and I know that also stems from Mr. Miller himself.

And so while sometimes you might hear me rather outraged at what I perceive to be cuts in this area, I hope you understand our concern is not of a personal nature. I do believe you have an outstanding, committed, dedicated group of people working for you.

I think sometimes your frustration level has got to be rather extraordinary, given the demands, given the constraints, and the mandates that you are given to operate under. I just again close with this final thing.

Understand that there are some of us out there—and Senator DeConcini has been there before I have and he has studied this area—who really are committed to trying to maintain some kind of balance in the program and try to get some more momentum in this area as it relates to drugs.

When there is even what might be the appearance of a deviation from that commitment or a lessening of that commitment, it reverberates, I want to tell you, throughout the country, not only with ourselves, and we slide back.

Mr. MILLER. I think the symbol is a real problem.

Senator DECONCINI. Thank you, Senator D'Amato. I agree with your compliment to the staff of the Director, as well as the Director.

Mr. MILLER. Thank you for that.

Senator DECONCINI. Let us get down to a few little details, Mr. Director, if we can.

Mr. MILLER. Yes, sir.

DETAILEES

Senator DECONCINI. How many detailees does your office have on a constant basis?

Mr. MILLER. Most of them are in the management area. I know I have a sheet on that.

Mr. TUPPER. We have 30 detailees, sir.

Mr. MILLER. Thirty.

Mr. TUPPER. About 17 of the 30 are in the management area.

Senator DECONCINI. And what is the average time that they stay with you?

Mr. TUPPER. I do not believe I have that. We can supply that for the record.

Senator DECONCINI. All right. I would like to know that.

[The information follows:]

AVERAGE LENGTH OF STAY FOR DETAILEES

The average length of stay is approximately 7 months. However, over 68 percent of the employees detailed to OMB stay 6 months or less. Due to individuals who are on long-term task forces or projects—although they are few in number—the length of stay substantially distorts the average length of details.

EMPLOYING PEOPLE AT BUDGET TIME

Senator DECONCINI. Are they all reimbursable? You do not pay for them?

Mr. MILLER. No; I do not think we pay for them.

Senator DECONCINI. And what is the process for reimbursement?

Mr. MILLER. Could I just mention we do get a lot of people in right at budget season to assist in the process of putting the President's budget together. After budget season they go back to their agencies.

Senator DECONCINI. And you can supply this for the record, but how do you go about securing these people? Do you ask a department, such as Commerce, to submit you three names and you pick one for some speciality, or how do you go about that?

Mr. MILLER. On putting the budget together, it is usually employees that our budget people know in the agencies. At the staff level, OMB managers notify personnel and budget offices of the different departments and agencies, as well as the Office of Personnel Management [OPM], in seeking qualified volunteers to work at OMB for 6 to 8 weeks during budget season. Some individuals may be detailed for longer than this, however it depends upon the particular project or assignment.

Senator DECONCINI. You contact that agency and say can we have Mr. "X" or Mrs.?

Mr. MILLER. It is actually handled at much lower levels than the Director.

Senator DECONCINI. Yes.

Mr. MILLER. There is a similar kind of arrangement on the management side.

Senator DECONCINI. My question relates to this: If you do not get the resources you need from Congress, your response probably is you are going to ask for more detailees just in order to do what you perceive to be the job as far as personnel is concerned?

Mr. MILLER. That would be one avenue that we would have. Again, the degree to which we could use detailees would depend. Some kinds of functions can be performed well with detailees and some functions are not condusive to this arrangement.

Senator DECONCINI. It concerns me about the detailees. I think, you know, it is certainly a legitimate executive shuffle of resources, but you kind of lose control somewhat of what really is the cost of your office.

Mr. MILLER. That is true, but——

Senator DECONCINI. If you have 30 detailees on an average of a year each, your budget really should add the cost of those 30 people and that goes for any agency that borrows people.

Mr. MILLER. Let me say, Mr. Chairman, I think the detailee program is a very good one from the standpoint of Government, regardless of who pays for it.

Senator DECONCINI. I agree.

Mr. MILLER. Having a little new blood in the agency, as well as having the people in the agency have a better idea of what OMB is all about is quite positive. However, as you say, to the degree we have detailees, our total budget understates the resources that we have.

Senator DECONCINI. Now, those detailees are totally integrated and subject to all of your directions and your personnel?

Mr. MILLER. Oh, sure.

Senator DECONCINI. We came across that with the National Security Council, the number of detailees that had been put in there, and we do not know how they were selected, but we are trying to secure that information.

Mr. MILLER. Again, let me say I do not personally select them.

Senator DECONCINI. You depend on your mid-level people?

Mr. MILLER. I depend on my mid-level people, but they all understand they are under our auspices; they work for the Director of OMB, not for the agency.

STANDARD LEVEL USER CHARGES

Senator DECONCINI. Yesterday, Jonathan Miller of the Office of Administration testified that the GSA and the Executive Office of the President had cut a deal to reduce the rental rate increase for the EOP office complex in fiscal year 1988. The results will be a savings of approximately $3 million. Your share of that savings will be $1,336,172.

With those savings, that would bring your budget request for fiscal 1988 down to $39,890,000. Can we now assume the subcommittee can reduce your initial 1988 budget request down to that level?

Mr. MILLER. Let me say three things in that regard, and they are related. One is I did not have prior knowledge of this deal. I did not know anything about it, and that was certainly an oversight on Mr. Miller's part, I think.

No. 2, he should not have been speaking about that without having that whole arrangement approved through the OMB budget process.

Senator DECONCINI. Are you indicating you would not have approved it?

Mr. MILLER. No, no; I am not saying that. I am just saying he did not follow procedure. But I have got to get together with Johnathan.

No. 3, of course, if it turns out that there are those kinds of savings, we would send up a budget amendment. Our preliminary calculations show the savings to be $1,323,991. However, GSA has still not completed the official calculations.

Senator DECONCINI. Would you take a look at it and see?

Mr. MILLER. Yes; we have got to get together with Jonathan and find out what the situation is.

Senator DECONCINI. That is a little bit of a start to get you down from the award-winning increase in your area if we can take off another $1.3 million.

Mr. MILLER. Keep in mind, though, that $40 million, in relative terms, is not that bad.

1987 SUPPLEMENTAL

Senator DECONCINI. I know, Mr. Director; I use that argument all the time.

Mr. Miller also testified yesterday that further absorption of the pay raise and the cost of the new Federal retirement system is possible for at least two of the EOP office, the White House Office, and the Office of Administration. He said that he would closely monitor the ability of other agencies in the EOP to further absorb any of these costs.

Can you tell us if your agency will be able to absorb a larger portion of your pay and FERS supplement request, and if not, why can you not follow the example of the two other sister agencies in the EOP?

Mr. MILLER. I do not know the details of these two agencies at the present time. I have been informed, however, that if we do not receive the supplemental we would have to cut personnel.

Senator DECONCINI. You would?

Mr. MILLER. We cannot absorb it.

Senator DECONCINI. How many would you have to cut if you do not get that? Do you know? I am not suggesting we are not going to give it to you. I would just like to know.

Mr. MILLER. We have asked for a $703,000 supplemental, and I understand that is a program of 35 people.

EQUIPMENT PURCHASES

Senator DECONCINI. Thirty-five people; thank you.

Since fiscal year 1986, Mr. Director, OMB has experienced substantial growth in the equipment budget of 76 percent. Can you tell us why it has jumped so substantially in the last 3 years?

Mr. MILLER. Our indices of computer use have gone up. Even though you have got increased speed of computers, we have used computers more extensively.

Senator DECONCINI. Was it basically the computer purchases?

Mr. MILLER. My impression is that ADP is a good portion of it.

Mr. JOHNSON. Yes, sir; in 1986 we had a lower base. That is the year our budget was cut substantially, so we went to the discretionary accounts first. It is a level that we would not like to continue funding equipment at.

Senator DECONCINI. You say you would like to continue?

Mr. JOHNSON. No; we would not like to continue funding equipment at that level. It was more a 1-year aberration than a fully operationally level.

Mr. MILLER. Put in other words, we got a substantial cut, so that is where we cut.

Senator DECONCINI. I see. That is where you took it out?

Mr. MILLER. That is right.

Senator DECONCINI. So then after 1986, you came back and made it up?

Mr. MILLER. Well, maybe not made it up, but it was an attempt to provide adequate equipment for the staff.

Senator DECONCINI. Trying to get it back up.

Mr. TUPPER. Catchup.

Senator DECONCINI. A little catchup, yes.

Do you anticipate equipment raises in the future?

Mr. MILLER. What we have in the budget is what we would anticipate to be our out-year numbers.

INTELLECTUAL PROPERTY

Senator DECONCINI. OK. Can you give us a little background, Mr. Miller, on the intellectual property question? On page 30 of your justification, you say that the Economics and Government Program Division will analyze a host of policies aimed at improving the Nation's international trade and intellectual property systems.

I am chairman of the Patent and Trademarks Subcommittee in the Senate Judiciary Committee. I am particularly interested in what you are looking at in the area of intellectual property. The gray market goods controversy is one that has been moving through the courts and Congress for some time, and I realize it may be a detail area or a specific area you may not be totally familiar with and I would appreciate anybody who could answer, or maybe supply the answer.

I would like to know what you can tell us briefly regarding the specific intellectual property policies under review by your office.

Mr. MILLER. Well, bear in mind that in the President's competitive package we had intellectual property provisions in that and we have on-

going work on that area. The Associate Director for Economics and Government just happens to be here, Carol Crawford, whom you know.

Senator DECONCINI. Yes; Carol, maybe you can help us.

Mr. MILLER. Can you comment on that?

Ms. CRAWFORD. I think what you are probably looking for, we can supply that for the record.

Senator DECONCINI. OK.

[The information follows:]

INTELLECTUAL PROPERTY

Intellectual property—ideas, concepts, inventions, and processes—is protected through the issuance and enforcement of patents, copyrights, and trademarks. This protection is guaranteed to American citizens by the Constitution which calls for the promotion of science and useful arts, by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries.

To help secure the soundness of the American intellectual property system, OMB staff performs two principle functions: (1) examines the budget of the Patent and Trademark Office [PTO] which is charged with the responsibility of maintaining the Nation's intellectual property system; and (2) reviews congressional testimony and correspondence and participates in interagency meetings to help formulate unified policy positions in regard to legislation and administration initiatives. The PTO is in the initial stages of automating its entire patent granting operations. OMB has played an active role in monitoring the development and implementation of this system which is scheduled for completion by the early 1990's. Revisions to the PTO's automation master plan and studies of key automation deployment decisions are reviewed throughout the year.

The formulation of unified policy positions among the agencies is performed by OMB staff through the clearance of congressional testimony and correspondence in addition to participating in interagency fora. The principle policy forum within the administration is the Economic Policy Council's working group on intellectual property. OMB staff performs the analysis of issues elevated to this forum and make policy recommendations to OMB officials. OMB also participates in interagency working groups addressing intellectual property issues related to the ongoing GATT negotiations and trans-border copyright infringement by Canada and Carribean nations. Key to OMB's role in the policy formulation process, is the time spent meeting with the staff of other agencies and with industry representatives.

INTELLECTUAL PROPERTY RECOMMENDATIONS

Ms. CRAWFORD. In general, that is an ongoing effort, as the Director said. It will include the proposals that are already in the President's package, and then any additional competitive proposals that are made by the Congress. There are a whole variety of bills.

Senator DECONCINI. Well, are you making recommendations on the intellectual property specifics in the President's trade bill?

Ms. CRAWFORD. There are specific proposals, yes, in the President's package.

Senator DECONCINI. Have those been forwarded, or have they been culminated?

Mr. MILLER. They are all reviewed within OMB; OMB has the legislative review function.

Senator DECONCINI. Yes; but do you make some yourself?

Mr. MILLER. Yes; from time to time. It is hard, in a sense, to draw a line between simply the review of alternative views from agencies

without interjecting your own. You usually interject your own views in some measure.

POSTAL SERVICE

Senator DECONCINI. Well, I will ask just one more question here. On page 34 of your justification, you indicate that the Housing, Treasury, and Personnel Division will, among other things, emphasize the analysis and alternatives for changing the relationship between the Postal Service and the Federal Government.

What are you saying? Is this a bureaucratic way of saying you are eliminating postal subsidies?

Mr. MILLER. Well, we are looking at the question of postal subsidies, but also, frankly, looking at ways of at least moving in the direction of privatizing the Postal Service, or at least giving some more competition for the Postal Service.

This is research that is engaged in by a number of agencies right now.

Senator DECONCINI. The analysis of alternatives for changing the relationship between the Postal Service and the Federal Government is listed as an emphasis for staff workload in 1988. Please explain.

Mr. MILLER. In eliminating the distinction between on and off budget agencies, the Gramm-Rudman-Hollings Act made much more explicit the deficit effects of the operations of the U.S. Postal Service. Because any postal expenditures in excess of postal revenues now directly add to the Federal deficit, OMB staff have had to increase their analytical efforts to review and project net Postal Service expenditures over the 5-year budget period. These efforts to improve long-range projections have been complicated by postal's use of a business type accrual accounting system while the Federal budget is developed on a cash accounting basis. OMB staff are working with Postal Service staff to understand more fully the deficit effects of postal operations. Finally, the administration has maintained an interest in improving the efficient operation of the Postal Service especially as private market competition develop innovative and less costly means for providing the same postal services. The 1988 legislative proposal to permit the Postal Service to secure debt financing for its capital project in the private market subject to the same requirements as any private corporation is the most recent example of this interest.

Senator DECONCINI. Do you have some problems with our Postal Service?

Mr. MILLER. As you may know, Mr. Chairman, I have written a piece which suggests that just as we have competition for the delivery of third-class mail packages, which is very healthy for the industry and especially for consumers, we might want to look at allowing, at least on a limited basis, some competition for the delivery of first-class mail.

It was an article I published that was based on testimony I gave before the Joint Economic Committee some 3 or 4 years ago.

Senator DECONCINI. Are you anticipating submitting a proposal?

Mr. MILLER. We do not have any plans at the moment to, but it is just one of the things we are looking at. One of the things we do at OMB is, from time to time, think out ahead on what kinds of issues are going to be developing and try to get ahead of the curve on them. This issue is one of those that has some interest, not just from OMB, but——

Senator DECONCINI. I am impressed with our Postal Service.

Mr. MILLER. Well, I am impressed with it, too.

Senator DECONCINI. I know there are some problems, but in comparison to any other country that I know of, it works well, the fact that it is supposed to carry itself, and almost does and will in another year, I think indicates that business practices and competition have made it far more productive than many other areas outside of Government.

Mr. MILLER. I agree. What my proposal was would be to open up, on a limited basis, some more competition. I think that would improve the Postal Service as well as give consumers——

Senator DECONCINI. Maybe you know, but postal productivity is 5 percent or something like that annually, versus industrial productivity of 3 percent. They have had a constant growth there, and I think they have been forced to do it by reduction of the subsidy and the fact that Congress has indicated we are not going to pay the bill.

Mr. MILLER. And the fact that they have competition.

Senator DECONCINI. And the fact that there is some competition.

Mr. MILLER. Yes.

USER FEES

Senator DECONCINI. Let me go one more on user fees that I did not get to and then I will yield to my friend from Maryland.

One of the hottest issues facing this subcommittee on the commercial trade industry is the matter of Customs commercial operations and how the newly enacted Customs user fee law will affect commercial services to the private sector.

There is a healthy dispute over the interpretation of the underlying user fee law, but there will also be healthy disagreement on Capitol Hill over the appropriate level of funding for Customs commercial operations for fiscal 1988.

If Congress goes along with the administration's budget for the commercial side of Customs, there will be wholesale cuts in personnel. As we approach passage of major trade legislation, why is OMB putting such rigid limits on user fees being used for Customs commercial operations?

Mr. MILLER. Let me supply an answer to you for the record.

Senator DECONCINI. OK.

Mr. MILLER. As you know, INS was going to go out with their regulation. Currently, we are reviewing it at OMB, and I have some people working on that. Let me get back to you pretty quickly on that.

[The information follows:]

CUSTOMS SERVICE COMMERCIAL OPERATIONS

The President's fiscal year 1988 budget for the Customs Service reflects the appropriate size of that bureau as determined by the administration. Over the past several years, there has been a substantial investment in automated equipment, primarily on the commercial processing side of Customs, which will enhance the effectiveness and efficiency of current Customs Service personnel. The benefits of these automated procedures, most notably within the automated commercial system [ACS] program are beginning to appear. Approximately 85 ports are expected to use ACS by 1988. Customs is also actively pursuing the goal of monitoring 80 percent of all cargo entering the country within the automated broker interface [ABI] system by 1989. The administration expects these automation initiatives to continue making Customs commercial processing activities more efficient while also allowing Customs personnel to be specifically targeted for better law enforcement practices.

In financing Customs commercial processing operations in the fiscal year 1988 budget, the administration had to estimate the approximate level of user fee receipts to be achieved by the ad valorem import tax instituted by the Omnibus Budget Reconciliation Act of 1987 [OBRA]. The fiscal year 1988 budget has proposed appropriations of $499 million from the special user fee receipt fund in 1988 for Customs commercial operations. For 1987, Customs commercial operations were financed by general fund appropriations provided by Congress.

The administration did not seek an appropriation from this sepcial user fee receipt fund for Customs commercial operations in 1987 because of considerable uncertainty about receipt collections in 1987. For example, the other Customs user fee, of which we have substantial actual data, (COBRA fees—on passengers and conveyances) has collected significantly less than originally estimated. This uncertainty is also occurring with the OBRA user fee estimates for which we have only 2 months of actual data. Because of this uncertainty and the consequent need to have a balance at the start of 1988 as a cushion from which a 1988 appropriation can be made, the administration has not proposed an appropriation from this special fund OBRA user fee receipt account for funding 1987 Customs commercial operations. If such an appropriation had been proposed, a corresponding rescission of the previously appropriated general funds would be necessary to avoid adding to the deficit.

A-76

Senator DECONCINI. I would be glad to yield to Senator Mikulski.

Senator MIKULSKI. Thank you, Mr. Chairman.

Good morning, Mr. Miller.

Mr. MILLER. Senator, how are you?

Senator MIKULSKI. OK. I see you have got quite a job cut out for yourself.

Mr. MILLER. Yes, ma'am.

Senator MIKULSKI. My questions will center on two areas where the President's goals and mine are identical. One is on the issue of competition and, picking up on what Senator DeConcini said, on the protection of intellectual property rights.

I would like to take the intellectual property right's issue one step further to the issue of library services within the Federal Government, if I may, and focus my questions on library services. First of all, I think we would agree that in order to be competitive, information is what will make us competitive. The protection of our information base, particularly within Government, is absolutely critical. Protection of intellectual property, I think, resides in our Government agencies.

You have had—when I say "you," I mean OMB, and your predecessor as well—have had kind of the policy decision to contract out Government library services. My concern is that this will diminish our competitive capacity in a couple of ways. Let me just go through them and then you tell me where you are on A–76.

Explain the difference between A–76 and privatization. I would like to know where you are heading and whether this in some way will weaken us in our ability to compete, particularly in our technological area.

I note that you have followed the policy. I would like to know where you are heading with the policy. I note that some agencies are contracted out, but yours is not. You keep your own library service.

There have been some concerns raised within the library technical community that some of the people we contract out to are multinational companies that might have a mixed mission that an in-house library service would not.

Now, I know you have contracted out libraries at NOAA, at NASA, and elsewhere. I just wonder about the wisdom of that policy, where you are going with it, and whether you think it is working. Do you see to where I am trying to get?

Mr. MILLER. Yes; I see.

LIBRARY SERVICES

Senator MIKULSKI. I am not, as a rule, in favor of contracting out the control of our ideas or our data base, and, in this case, our information base.

Mr. MILLER. Well, certainly, not without safeguards.

Senator MIKULSKI. Real safeguards, like preventing multinational company ownership.

Mr. MILLER. Yes.

Senator MIKULSKI. Could you first start with telling me about A–76 and privatization? I think it would help at what I am getting.

Mr. MILLER. A–76, sometimes we talk about as being part of privatization. As you know, A–76 is the circular under which agencies contract out certain of their functions. If you think of Government broadly, Government can direct resources to have certain things done, services delivered, transfers to take place.

While in many areas there is ample justification for Government to finance certain activities to take place, you can make a decision of whether they should be provided by Government or provided by the private sector.

If you are talking about police, usually, or the Armed Forces, you do not usually think of going out and contracting to have those provided privately, although some nations do that in certain respects.

But if you are talking about the provision of a cafeteria, there is no inherent reason why the Government should provide the service with Government employees. It could be contracted out to the private sector.

We have a number of instances where Congress has restrained us from contracting out, and I think quite to the disadvantage of the taxpayer because we find in situations where we go through this bidding process that the taxpayer really gains, whether the Government agency that is providing the service or the private company wins the bid.

The reason is many times the Government agency finds out that they can do things a lot better.

Senator MIKULSKI. I think we understand the theory of it.

Mr. MILLER. Right.

Senator MIKULSKI. But what is A–76 and privatization—what is the difference between the two?

Mr. MILLER. Well, we tend to think of A–76 as part of privatization; that is, in having the private sector do more of the providing of goods and service than the public sector doing it directly.

An example of privatization, where the Government or some Government-sponsored enterprise provides service, would be the selling of Conrail to the private sector, where it is an 85-percent Government-owned railroad and it becomes part of the private sector.

I would say that when you have a lunch room and a cafeteria in a Federal building, and you move from its being a Federal installation to having a contractor come in, you are replacing Government provision with private provision, and that, too, is privatization.

Senator MIKULSKI. What are the differences between privatization and A–76?

Mr. MILLER. Under the privatization concept, the Government essentially withdraws from the responsibility to assure that a service is provided. The private sector provides the level of service that the commercial market will support without Government interference.

Under the A–76 concept, the Government retains responsibility for the provision of the service, including, in most cases, the funding of the service. The Government sets the standards of performance in a management document, called a performance work statement, and monitors the results to assure the service is provided as specified. The Goverment uses competition between a Federal work force and commercial sources to determine which can provide the service at the least cost to the taxpayer. There is no mandate to use commercial sources unless they prove significantly more cost effective. The current OMB Circular A–76 requires the Government work force to adopt the most efficient sources and provides costing advantages to the Government to retain the activity in-house.

Senator MIKULSKI. I have got it. Now, could we go to the libraries?

Mr. MILLER. Yes; could we go on to that point?

I am not as familiar as I should be on exactly how this contracting out works. Let me get some information to you. You are absolutely right that to the degree we provide information that should not be provided to our competitors, we do not secure our own intellectual property. We ought to look out for that.

Senator MIKULSKI. And let me be very clear. First of all, I understand, say, the contracting out of maybe landscaping services. That could be done maybe more efficiently by a local gardener, and we understand that, and even the contracting out of some library services.

I want to come back to, again, the protection of our intellectual property and our science and technology. Just as DOD has a core logistics which we do not contract out, I would like for the benefit of the committee to discuss the issue around agencies that are really in the Government business of science, NOAA, NSF, the Department of Energy, some parts of the Department of Commerce. I think we need our own people in charge there and I am opposed to contracting out there, and particularly contracting out to multinational companies.

I would like to know how you handle multinational companies from bidding, and then what safeguards are there. Maybe we need to prohibit them.

Mr. MILLER. I guess, Senator, that a relevant question would be what access would these individuals have if it were run by the Federal Government for the same information, as opposed to it being run by even a multinational company. I think that is the thing we have to look into.

Senator MIKULSKI. Well, a couple of criteria, Mr. Miller. I am sure national security is protected; I have confidence in that. But we are talking about those ideas that are in the gray area. One is access; the other is also the maintenance of quality so that our NOAA library, for example, is up to snuff, so that NASA, which is a Federal agency I'd consider a venture capital organization, is successful.

Again, access, the issue of quality for our scientists, our engineers, and so on, to make sure we are working on that guarantee—we would no more contract out our information than we would contract out the National Security Agency. I know that when it is in the civilian domain, we often are not as meticulous.

My question would be, then, why do you not contract out the OMB library services?

Mr. MILLER. Well, let me come back to that, but first let me say you are absolutely right; it is a matter of quality. If quality deteriorates under the contract, we have contracted wrong. We need to change our ability. Now, in response to your question on an OMB library. OMB does not have a library, but rather we use one operated by the Office of Administration, who in some instance does use contract personnel.

However, I have not priced out the contracting of the Office of Administration library facilities. It might well be a possibility.

Senator MIKULSKI. I do not think you have anything really secret.

Mr. MILLER. You may be correct, however, we do have some intelligence data that needs to be handled with great care.

Senator MIKULSKI. And I understand. I am not minimizing this, but picking up on Senator DeConcini's theme and the President's desire for us to be competitive, I would really like you to tell the committee what is your policy in the area of library contracting out, what is the criteria particularly in scientific agencies, and then what do you do to make sure access and quality are important.

Mr. MILLER. We will get back to you.

[The information follows:]

OMB Circular A–76 defines commercial source as a business or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia or the Commonwealth of Puerto Rico, which provides a commercial product or service.

This limits A–76 opportunities to domestic sources. Foreign firms may not compete for A–76 contracts. However, subsidiaries of foreign firms located in the United States are considered domestic sources and may bid on A–76 contracts.

One of the key aspects of A–76 is the disciplines management system it establishes to assure the maintenance of quality performance whether the function is performed by the Government or commercial sources. The Government is required to define its quality and timeliness standards in a management document called a performance work statement. These must be clearly measurable performance standards that will hold the Government or the contractor accountable for performance as specified. A formal measurement plan is required to assess actual performance against the standards.

Contractors are subject to a thorough technical evaluation to assess their ability to meet the Government's performance standards before they may be awarded a contract. If a contract is awarded, failure to meet the performance standards specified results in reduction of the contractor's payment. Continued failure to perform results in termination of the contract and award to a new competent contractor or return to Government performance. This management discipline is very successful in obtaining quality performance.

If the operation requires the handling of classified information, contractors must obtain the appropriate security clearances under the industrial security program, for both the officers of the company and the work force, before they may start the contract.

If the Government properly does its job, this program offers all our citizens the opportunity to economically serve their Government.

CHESAPEAKE BAY PROGRAM

Senator MIKULSKI. Mr. Chairman, I have one other set of questions relating to soil conservation.

Senator DECONCINI. A great subject.

Senator MIKULSKI. It truly is.

The President has been wonderful in helping us provide the funds for the cleanup of the Chesapeake Bay, and I know it has been a policy directive. Having said that, I am now going to come to soil conservation money.

We spent a bundle in terms of studies on the bay, and the molecular biologists have had a great time. We now know all the molecules that are negative, but now that we are in the practical implementation, we find that the budget is being cut in very severe areas.

Again, you might not be familiar. I have been in debates where everybody equated memory with being a good Senator, and I do not equate memory with being a good OMB Director.

Mr. MILLER. Good. I have a chance, then.

Senator MIKULSKI. We understand. You have got 60 pages here of work.

Right now, there have been some budget and fiscal decisions related to really curtailing soil conservation. In one, it has been to shift staff to implement the farm bill, and then second, I believe, actual cutbacks in the Chesapeake Bay in terms of the soil conservation personnel; I think maybe the loss of about 30 plus people.

That soil conservation, Mr. Director, is one of the most practical, cost-efficient tools to correcting nonpoint pollution. Those farm runoffs, and so on, are really detrimental.

The bad news is we had a drought last year in Maryland. The good news was we found out from the drought that the nonpoint pollution, which did not run off because there was no water—we had an important comeback.

So my question is where are we on these soil conservation decisions, and are we inadvertently cutting off some of the most important practical implementations of the bay cleanup and, on the one hand, funding enormous studies only to see that the real hands-on field people are being eliminated?

If you could look into that——

Mr. MILLER. I will look into it.

Senator MIKULSKI. Certainly, furnish it to me and I will give it to the Chair to see if he wants it part of the record.

Mr. MILLER. OK, fine.

SOIL CONSERVATION TRANSFER OF PERSONNEL

Senator MIKULSKI. Nonpoint source pollution is the bay's biggest problem. I understand that the U.S. Department of Agriculture, Soil Conservation Service, is pulling people from working on this problem and using them to push the administration's farm program.

Mr. MILLER. To the best of our knowledge, no individuals have been transferred from current duties to work on farm bill legislation. In the 1988 budget, USDA is proposing to reprogram 30 FTE's nationwide to other activities, but no individuals have been identified as part of that reprogramming.

Senator MIKULSKI. Thank you.

Senator DECONCINI. Do you have anything further, Senator?

Senator MIKULSKI. No; with 60 pages here, I wonder if we cover Rolaids in your budget, too.

Senator DECONCINI. Mr. Director, thank you for your time and the help from your staff. I just wanted to underscore the importance that this Senator places on your involvement in the Drug Policy Board, not just the recent effort to assist in some aircraft transfers, but the time you put in, which I know, is important.

Expediting these things are important to us up here, and I hope you can take that to your Drug Policy Board meetings that we do not expect the impossible, but we appreciate it when they do function. Of course, you always like it to come out your way, but we certainly want that board to function expeditiously and not be used by any particular agency, whether it happens to be Treasury, Justice, DOD, or anybody else, to slow it down. We are interested in getting on with this program.

Mr. MILLER. Could I just say it is a very collegial operation. I have been associated with a number of things in the Government. It really is run well and the people on the board seem absolutely committed to getting things done.

Senator DECONCINI. That is important.

Mr. MILLER. We may have some disagreements on tactics from time to time. I guess inevitably when you have disagreements, it slows things down a little bit, but things work well.

Carol Crawford, just a while ago, spent a lot of her time on that as well.

Senator DECONCINI. Yes; we want to thank Carol and urge her to keep spending a lot of time on that and get those things expedited.

ADDITIONAL COMMITTEE QUESTIONS

There will be some additional questions from various Senators which we will submit to you for your response.

Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Additional Committee Questions

Customs/BATF

Senator DeConcini: This Adminstration has been obsessed with pumping tens of millions of dollars and thousands of new staff into the Internal Revenue Service with an eye toward increasing revenues. The Administration points with pride to a computer model that equates more IRS staff to more revenue to the Treasury.

A little publicized fact is that both Customs and BATF bring in, together, over $25 billion a year into the Treasury but OMB continuously cuts both agencies back. There is no doubt in this Senator's mind that the payoff from putting more "targeted" staff into these two agencies could result in at least at 10:1 payoff in terms of more revenues to the Treasury.

There may not be a computer model that says so, but the data is hard to dispute.

With this type of return on investment at Customs and BATF, why do you continue to cut these agencies' staff so sharply, when IRS continues to prosper?

Mr. Miller: The Administration disagrees with the assertion that all revenue-collecting agencies are the same and should be treated equally. The largest revenue-collection agency, the Internal Revenue Service, has been able to analytically document a specific marginal relationship between overall budget and personnel levels and the amount of tax revenue to be gained or lost.

Given the emphasis placed on tax reform by the President and the Congress, the Administration felt that further strengthening IRS budget resources was of the utmost importance in the FY 1988 budget process.

Unlike the Internal Revenue Service, the Customs Service has never documented, through analytical data, a relationship between overall budget and staffing levels and total revenue to be collected in a particular year. Total revenues collected by the Customs Service are not a product of overall budget and personnel resources, but rather a factor of general economic conditions and trade activity.

The type of revenues collected by the Bureau of Alcohol, Tobacco and Firearms (ATF) is similar to the Customs Service. Taxes monitored and collected by ATF are a result of the production and manufacturing activities in the alcohol and tobacco industries. Similar to Customs, ATF has not analytically documented any relationship between overall ATF budget resources and total revenues achieved.

Effects Of Living With CBO Baseline / True Freeze

Senator DeConcini: Mr. Miller, there is some momentum here in the Committee to force agencies to live with the CBO baseline estimate for fiscal year 1988. For your agency, the CBO baseline, including a small inflation allowance, would be $40 million -- about $1,226,000 below your budget request.

What would be the effect on OMB operations if you were forced to live with the CBO Baseline level in 1988? Be specific and tell us where you would make economies at OMB.

What would be the effect on OMB operations if we were to hold your agency to their current FY 1987 estimate of $37,703,000 for fiscal 1988? Again, be specific.

Mr. Miller: As you know, approximately $3,174,000 (or 90%) of OMB's requested increase is for non-discretionary cost increases associated with the new Federal Employees Retirement System (FERS) and annualization of the January 1987 pay raises, as well as higher rents for currently occupied office space. A reduction of $1,226,000 to OMB's request would not negate the increases which will still take place. Consequently, the increased costs would have to be absorbed through reduced outlays for equipment, travel and supplies, which would save approximately $395,000. The remaining $831,000 would have to be absorbed through fewer staff which we would currently estimate to be 20-25 fewer employees.

If OMB is held to the current 1987 estimated operating level of $37,703,000 substantial reductions, over and above those listed above would be needed. Travel and equipment purchases would be dropped to the bare minimum. Other operating costs would be reduced as a result of additional staff reductions. As a result of these actions, an additional $400,000 could be saved.

In addition, we would attempt to reduce costs for communications, printing and reproduction, space, and ADP support. This would save another $572,000. The remaining shortfall would have to come from a cut in staff of an additional 35-40 employees.

The above assumes SLUC rates as shown in OMB's request. However, we are working with GSA to reduce increases assumed in the President's budget. Once finalized, resulting savings could be used to meet the reductions mentioned above.

Supplementals for Pay and FERS

Mr. DeConcini: Mr. Miller, one of the reasons that OMB is subject to so much criticism, is because it seems to exempt itself from some of the budget restraints imposed on their agencies. For example, you have granted yourself $290,000 for the 3% pay raise and $413,000 to cover the FERS costs in fiscal year 1987. Many agencies funded within this appropriation bill are being forced to cut staff in order to pay for the pay raise and FERS contributions for other employees. Yet you receive at least some supplemental relief. Why should we approve your supplementals for pay and FERS when other agencies are forced to absorb 100% of their requirements this year?

Mr. Miller: As you know, OMB's 1987 budget request of $39,682,000 was reduced to $37,000,000, or a reduction of 6.8%. Since FY 1979, OMB is 10 percent lower in real funding levels, with 35 (6 percent) fewer full-time personnel. In addition, non-discretionary costs have increased from 86 to 90 percent of OMB's budget. As a result, absorbtion of any increased costs translates into fewer staff. I feel that OMB's request is necessary in order to continue to provide support to the President in his budgetary, management and other executive responsibilities.

Questions Submitted by Senator Barbara A. Mikulski

CHESAPEAKE BAY PROGRAM

Senator Mikulski: In his 1984 State of the Union Address, President Reagan pledged to "Begin the long, necessary effort to clean up a productive, recreational area and a special natural resource -- the Chesapeake Bay." If the President is still committed to the long, necessary effort to clean up the Chesapeake, then why has your Department sent the Congress a budget which:

A) eliminates all funds for the Soil Chesapeake Bay Program effort; and

B) cuts the overall SCS budget so sharply that as many as 140 SCS positions in the Bay Region would have to be sent to other parts of the country just to deal with new Soil Conservation Programs begun under the 1985 Farm Bill?

Mr. Miller: The President's 1988 budget request does not eliminate all funds for the SCS's Chesapeake Bay Program effort. Full funding is requested for the SCS technical assistance program under which the primary thrust of SCS's participation in the Bay cleanup effort is provided. The budget assigns top priority to servicing the workload related to implementing the conservation provisions of the 1985 Food Security Act, this will require a significant commitment of the SCS field work force for a two to three year period. We do plan to honor our commitments to the Chesapeake Bay Program, to the greatest extent possible after our commitments to the Food Security Act work are met. In the interim, we will look to State agencies and the local conservation districts to play a greater role in maintaining this work. It should also be emphasized that there is a direct beneficial impact of the Conservation Reserve Program on the Bay's water quality and the clean up effort. The Food Security Act work is directed towards reducing excessive cropland erosion, and it is this highly erodible land which currently contributes greatly to Bay pollution problems.

Senator Mikulski: Non-point source pollution is the Bay's biggest problem. Is the Administration still committed to the Chesapeake Bay cleanup and the Bay's number one pollution problem? If it is still committed, then why are you reducing funds for the one program that provides the most help in lowering non-point source pollution.

Mr. Miller: Funding for Chesapeake Bay cleanup comes from both the Environmental Protection Agency and the Department of Agriculture, Soil Conservation Service.

As a result of the President's 1984 State of the Union Address, the Administration announced a four year, $40 million Chesapeake Bay Program beginning in FY 1985. The President has requested $10 million in EPA's budget each year through FY 1988. As a result of the program and State efforts under the Chesapeake Bay Agreement, about 90,000 acres have been treated with best management practices, resulting in a savings of 540,000 tons of soil from eroding and stopping 600,000 pounds of phosphorus from entering the Bay.

In FY 1988, EPA will continue to provide $7 million in matching grants to the Bay States for the implementation of nonpoint source control plans. In addition, funds are provided

to evaluate the results of nonpoint source control implementation.

The recently enacted amendments to the Clean Water Act authorize the greater of $100,000 or one percent of the State's annual sewage treatment grant allotment which is reserved for development and implementation of nonpoint source programs. In addition, nonpoint source projects are eligible for Federal sewage treatment grants under the Governor's 20 percent discretionary provision (Section 201 (g)(1)). New State Revolving Funds established by the 1987 amendments may also be used for implementing nonpoint source management programs.

As for the Soil Conservation Service, funding and FTE levels for technical assistance available to the Bay program and other conservation activities will remain at the 1986 level of roughly $1.13M, which is supporting 31 FTE's. These resources will be used to respond to conservation needs, be it Bay related or in support of the Food Security Act.

FEDERAL LIBRARIES

Senator Mikulski: Mr. Miller, it is my understanding that Federal libraries and information centers are considered by OMB to be commercial activities subject to contracting out guidelines set forth in OMB Circular A-76. What is the rationale for such a classification? It seems to me that libraries and information centers are an essential part of decision-making by any agency.

Mr. Miller: Yes, libraries, as a category of support services, often are commercial activities subject to the guidelines of OMB Circular A-76. They are commercial activities as defined in A-76 because there are a great many organizations outside the federal government that provide library services; universities, cities, counties, non-profit organizations and profit making firms.

It has been the express policy of every Administration since 1955 to use, to the maximun extent possible, private sector organizations to provide commercial services to the Government when it makes sense to do so. The policy of A-76, when there is no overriding need to have the work done by federal employees, is to allow these non-federal organizations the opportunity to compete for that work.

We recognize that many commercial activities, however, must be done by government employees. The departments and agencies may exempt these critical functions from competition. However, an exemption for libraries, which are routinely run outside the Federal Government, is not warranted.

In the sense that libraries provide data as input to the decision-making process, I agree that libraries are an important adjunct to that process. However, under A-76, library services are not eliminated. Instead, A-76 ensures that the taxpayers pay for the most efficient way to provide the service. This does not

mean that some library facilities may not be closed. For example, closure may be appropriate where there are several in a concentrated area of Federal agencies. The General Services Administration and the Department of the Interior, for example, are conducting a joint study of their headquarters libraries, which are located virtually across the street from each other.

Senator Mikulski: Doesn't it strike you Mr. Miller that Federal libraries are essentially Governmental in nature because they provide the foundation for essential decision-making by an agency?

Mr. Miller: No, I don't believe so. A Governmental function, in A-76, is a function which is so intimately related to the public interest as to require performance by Government employees. These functions include activities which require either the exercise of discretion in applying Government authority or the use of value judgement in making decisions for the Government. They usually do not include library services, which while supportive of Governmental functions, are properly classified as commercial activities. It is our opinion that most, but not all, Federal libraries should be subject to competition. Properly educated or trained library personnel--federal employees or non-federal employees--can adequately provide the data necessary for decision making.

Senator Mikulski: In the Defense Department, certain "core logistic" fuctions, considered inherently governmental, are exempt from contracting out. What could be more "inherently Governmental" than an agency's institutional memory found in its libraries?

Mr. Miller: Congress passed a statute providing that certain depot maintenance functions on mission-essential material in the Department of Defense should be considered "core logistics" functions not subject to competition.

The circular allows adequate discretion to agency management to exempt from competition those library functions where the institutional memory of specific Government library personnel is critical to the functioning of the agency. However, in many libraries the institutional memory is retained in the documents on file and not in specific individuals.

It is important to note that A-76 is not a contracting out policy. It is a disciplined management approach to making a decision on the most cost effective way to provide government support services. The periodic management review of commercial activities may result in a decision to retain all or part of an activity within the Government without a competition. The process may result in a contract if a non-federal

source can prove it can meet the same quality standards as the Government at a significantly reduced cost. The process can also result in a better managed, more cost effective government operation. The costing process in the circular provides a significant advantage to the Government to retain commercial activities in-house.

Senator Mikulski: How many Federal libraries are there and how many have been contracted out to date? [Provide on agency-by-agency basis]

Mr. Miller: There are approximately 2,400 Federal libraries. As OMB does not maintain the detailed type of information you asked for, we requested data from 23 of the largest departments and agencies which have 1,965 libraries. A total of 78 libraries are currently contracted out. Many of the other libraries have some functions provided by contract, but the management of the library remains with the government. We do not have data on the numbers of these support services contracts.

The attached chart provides an agency-by-agency analysis.

Senator Mikulski: Have any of these contractors been foreign-owned companies or multi-national corporations? [If there have been any foreign companies, isn't there a risk that we will have foreign companies/countries in charge of our national information resources?]

Mr. Miller: There are two current contracts with a subsidiary of a foreign firm and one contract about to be awarded to the same firm.

We do not see a serious risk that foreign companies will have charge of our national information resources through the A-76 program. We do not contract directly with foreign firms under A-76 but, as indicated above, we do not eliminate domestic subsidiaries of foreign firms located in the United States from bidding on libraries or more sensitive functions. We have the ability to control the disemination of technical material that is classified or sensitive. Contractors must obtain proper security clearances under our industrial security program. Firms that cannot meet these security standards may not be awarded contracts. Security clearances are limited to U.S. citizens, except when we have a reciprocal agreement with a foreign nation. For foreign-owned firms, we can segregate the foreign owners from any access to classified material, even to the point of prohibiting visitation rights to the activity in question, if necessary. There are additional limitations to issuing clearances to naturalized U.S. citizens from countries

whose interests are adverse to those of the United States.

Information that cannot be released to contractors may be kept under Government control. However, the great bulk of material in our libraries is not classified and we have a national policy to share our technical information throughout the world. The Commerce Department, for example, operates the National Technical Information Service. This organization maintains and markets over 1.4 million technical reports, including over 350,000 foreign technical reports. These reports are provided voluntarily by the agencies and information that should not be diseminated is retained by the agencies. NASA operates, by contract, the Scientific and Technical Information Facility which diseminates technical information to its exchange partners.

Senator Mikulski: How much money has the Federal Government saved by contracting out library services? [Provide on an agency-by-agency basis]

Mr. Miller: We can track annual savings of approximately $807,000 as the result of 22 contracts; and another $481,000 per year on 22 government operated libraries that won the A-76 competition for a total of $1,288,000. The attached chart provides agency-by-agency data.

Many contract libraries, incidentally, are not the result of A-76 cost comparisons. They were contracted from the beginning of their operation. There are 30 such libraries in the Department of Energy's reseach and development facilities, and NASA has contract libraries at the Jet Propulsion Laboratory and the Kennedy Space Center. There is no basis to compare the cost of these contracts with Government operations.

Senator Mikulski: In doing this cost-savings analysis, has OMB factored in whether or not there has been a decline in information services for the particular agency?

Mr. Miller: The A-76 process is designed to maintain at least the same quality service as was provided by the original government operation. Our discussions with the agencies on the quality of library service under contract indicates that the quality has been maintained in the overwhelming majority of cases. In some cases, in fact, it is reportedly much better than when the service was provided by the Government. Where problems were encounted, they were at the beginning of the contract and were eliminated over time.

In contrast to the popular belief about A-76, the first priority of A-76 is to establish the quality standards of Government-operated commercial activities and, second, to obtain the defined service at the most reasonable cost. The costing methodology in the circular adds a cost margin equal to ten percent of the Govenment's personnel related costs to the contractors bid/proposal price to give consideration to the temporary loss of efficiency and effectiveness that may result when a conversion takes place. This cost advantage and several others in the circular significantly favor retention of the work in-house.

Senator Mikulski: I understand in a number of agencies where there has been library contracting out, like NASA, information services are both inefficient and not state-of-the-art technology.

If that's true, then aren't any cost-savings really artificial because we are being penny-wise and pound foolish with our Federal information base?

Mr. Miller: The cost savings obtained are not artificial. Every agency that we contacted stated that contracted library service was good or much better. With specific regard to NASA, that agency is installing a new library system, "AIRN", to connect all its libraries and bring them up to state-of-the-art. The decision on the type of system to use was a NASA decision-not that of a contractor. The contractor that runs the Scientific and Technical Information Facility, which will install the new system is given "good marks for the money" by the NASA librarian.

Senator Mikulski: What qualification standards are used for awarding contracts for library services?

Mr. Miller: Each contract specifies the qualification standards needed to meet the unique requirements of that specific library. Normally the basic standard is that, at a minimum, the contract manager must have a masters degree in library science. Most contracts specify specific personnel qualification standards for other employees also. Too often, however. the Government imposes its own personnel qualification standards on the contractors and reduces their flexibility to innovate.

Regardless of the standards specified, the Government must conduct both a financial and technical evaluation of the potential contractors to determine their capability to perform before awarding a contract. Contract award procedures are based on selecting the lowest priced contractor that demonstrates that it can meet all the Government's standards. The award is not based on low price alone. The circular specifies that the technical evaluation of the contractors should be

done by a team of Government personnel and include analysis of at least the following information: 1. Key personel letters of intent and resumes; 2. Availability of labor force, plan for recruiting, type and extent of training; 3. The role of the contract manager and the extent of his/her authority; 4. Organizational and functional charts; 5. Manning charts in a format requested by the Government; 6. Plans and management procedures for administrative support, to include contractor furnished supplies and equipment, and procedures for timely payment of personnel; 7. Procedures to be used to ensure contract requirements are met (quality control program); 8. Startup and phase-in schedule; 9. Corporate experience; 10. Other contracts which the contractor is the apparent winner.

Senator Mikulski: When determining qualification standards for contract personnel, are those standards set for anyone other than the contract project's leader?

Mr. Miller: Yes. The extent depends on the contract requirements. For example:

Department of energy:

Senior reference librarian - B.S. and M.S. in library science and four years advanced experience.
Junior reference librarian - masters degree in library science.

Also included are standards for senior technicians, mid level acquisition technicians, junior acquisition technicians and public service technicians/computer operators.

Department of Housing and Urban Development.

Collections Development - masters degree in library science and five years experience.

Cataloging - masters degree in library science and four years experience.

Reference - masters in library science with five years in readers services in a library of like size and scope.

NOAA requires the OPM classification standards.

Other contracts even require undergraduate degrees in specific technical or scientific fields.

Senator Mikulski: What Federal libraries do you or other Federal agencies intend to either contract out or study for possible contracting out in FY 88 and FY 89?

Mr. Miller: There are currently 72 libraries scheduled for study under A-76 through FY 89. The attached listing identifies those facilities.

CONTRACTED FEDERAL LIBRARIES

AGENCY	NUMBER OF LIBRARIES	NUMBER CONTRACTED	NUMBER FOREIGN/M-N	ANNUAL SAVINGS (000)	NEW STUDIES
AID	1	1	0	UNKN	0
AG	32	0	N/A	N/A	0
COMMERCE	6	2	1	183.6	1
COE	49	1	0	UNKN	0
DEFENSE	1090	17	0	756.0	63
ED	1	0	N/A	N/A	0
EPA	28	12	0	162.2(?)	0
ENERGY	35	34	0	UNKN	1
GSA	2	0	N/A	N/A	1
HHS	10	0	N/A	N/A	0
HUD	1	1	1	166.7	0
INTERIOR	400	0	N/A	N/A	2
JUSTICE	6	1	1	UNKN	2
LABOR	2	0	N/A	N/A	1
NASA	13	9	0	UNKN	0
OPM	1	0	N/A	N/A	1
SBA	2	0	N/A	N/A	0
STATE	4	0	N/A	N/A	0
TRANS	1	0	N/A	18.0	0
TREASURY	6	0	N/A	N/A	0
USIA	101	0	N/A	N/A	0
VA	174	0	N/A	N/A	0
TOTALS	1,965	78	3	1,288.5	72

Libraries Scheduled for A-76 Study Through 1989

Commerce

NOAA - Rockville, Md. - imminent award

Census - Suitland, Md.

Energy - Portland, Oregon

GSA - Main and Regional Library combined with Interior Library - Washington

Interior - Departmental Library - combined with GSA Library - Washington

Justice - Main Library - Washington

FAI Library - Washington

Labor - Main Library - Washington

OPM - Main Library - Washington

DoD List of 63 Libraries on next page

RECREATIONAL LIBRARIES

SINGLE FUNCTION STUDIES

Ft. Sheridan, IL
Ft. Riley, KS
Ft. Campbell, KY
Vint Hill Farms Station, VA
NAS Oceana, HI
NAVCAMS EASTPAC Honolulu, HI
NAVSEGRUACT SABANA SECA, PR
NAS Meridian, MS
NAVSTA Roosevelt Roads, PR
WPNSTA Yorktown, VA
NAS Memphis, TN
NAS Key West, FL
SUBBASE New London, CT
SUBBASE San Diego, CA
NAVTRASTA Great Lakes, IL

INCLUDED AS PART OF MULTI-FUNCTION STUDIES

Ft. Buchanan, PR
Ft. Indiantown Gap, PA
Ft. Huachuca, AZ
Ft. Leavenworth, KS
Carlisle Barracks, PA
Ft. Bliss, TX
Ft. Belvoir, VA
Ft. Eustis, VA
Ft. Lee, VA
Ft. McPherson/Gillem, GA
Ft. Ritchie, MD

MOT Bayonne, NJ
Oakland Army Base, CA
Ft. Ben Harrison, IN
Letterkenny AD - MRSA, PA
NAVSTA San Diego, CA
NAVSTA Mare Island Vallejo
NAS Norfolk, VA
NAVSTA Pearl Harbor, HI
NAVSTA Treasure Island, CA
NAVPHIBASE Coronado/San Diego, CA
NAVSTA Long Beach, CA
NAS North Island, CA
NAS Miramar, CA
NAS Moffett Field, CA
NAS Lemoore, CA

REFERENCE/TECHNICAL LIBRARIES

SINGLE FUNCTION STUDIES

NAVGMSCOL Dam Neck, VA
NAVSHIPWPNSYSENGSTA Port Hueneme, CA
NAVSHIPYD Long Beach, CA
NAV SEA CENPAC San Diego, CA
NAVSHIPYD Charleston, SC

INCLUDED AS PART OF MULTI-FUNCTION STUDIES

Ft. Buchanan, PR
Ft. Benning, GA
Ft. Benning, GA
Ft. Sheridan, IL
St. Louis RCPAC, MO
West Point, NY
Ft. Bliss, TX
Red River Army Depot, TX
Ft. Eustis, VA
Ft. McPherson/Gillem, GA
NAVSTA Long Beach, CA
NAVSHPYARD Long Beach, CA
Log Svcs Ctr, Battle Creek, MI
Defense Contract Admin Region, Atlanta
Defense Contract Admin Region, Los Angeles, CA
Admin Support Center, Alexandria, VA
Personnel Support Center, Philadelphia, PA

Questions Submitted by Senator Pete V. Domenici

Biennial Budget Cycle

Mr. Domenici: Calls for budget reform are increasingly heard as budget deadlines are too often missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the two-year budget cycle where budget and appropriations matters

would be considered in the first year, and authorizations and oversight would be undertaken in the second year.

1. Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

2. Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

3. What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

4. If you oppose the biennial budget concept, please give this subcommittee your reasons why.

Mr. Miller: By way of general response to the question, the Administration is studying the subject of multi-year budgeting and whether to propose biennial budgeting for appropriations for accounts other than those in the national defense function. At the conclusion of the study, recommendations will be made to Congress.

1. Biennial budgeting would appear to have substantial advantages for a number of agencies. With respect to the Office of Management and Budget, the ability to make plans for a two-year period would be the greatest benefit. We do not expect -- or object -- that the number of oversight hearings at which OMB would be asked to testify would be significantly different.

2. OMB is a nearly classic "salaries and expenses" agency, with personal services and benefits and rent accounting for about 85 percent of its obligations. While it is not proper to characterize this percentage or more as "repetitious" of the previous year's request, a very large proportion of OMB's budget is for activities that must be carried out each year. Variations occur primarily when additional responsibilities are imposed by law (e.g., Paperwork Reduction Act, Gramm-Rudman-Hollings Act) and when major investments in information and telecommunications technologies are necessary.

3. The most obvious difficulty in preparing and submitting a two-year budget is associated with the greater uncertainty associated with the second year and the almost inevitable increase in the number of supplemental requests that will have to be reviewed and sent forward to Congress.

4. As is noted above, the Administration is considering whether to propose biennial budgeting for accounts other than those in the national defense function. One matter that concerns us is the possibility that biennial budgeting will create an upward bias in discretionary appropriations in the second year. No such conclusion has been reached at this point.

Questions Submitted by Senator Alfonse M. D'Amato

Customs Air Interdiction Program

Senator D'Amato: FACT. On February 6, the Administration proposed a delay in the obligation of $32,099,000 for the Customs air interdiction program until Fiscal Year 1988.

FACT. In addition to its request that Congress approve delaying the obligation of $32 million, the Administration has requested $86.2 million for the air program next year.

If, by the middle of this year, Congress does not agree to delaying the $32 million until next year, will OMB increase its budget request for the air program in FY 1988 above $86 million?

Can you estimate how much of an increase you will request?

Mr. Miller: If Congress fails to enact the proposed language change, the Administration will consider the necessity for amending its 1988 budget request for this program. It is premature to estimate the magnitude of the need for additional funds, if any, at this time. For instance, we anticipate that the costs for three C3I centers (Miami, Houston, Southern California) and E-2C operation and maintenance will be lower than anticipated in the 87 appropriation bill, and these no year funds could be used to offset 1988 costs in excess of the $86 million request.

Drug Prevention and Treatment

Senator D'Amato: Can you explain why you have proposed the following cuts for drug prevention and treatment:

	FY 1987 CR	FY 1988 REQUEST
Department of Education Prevention Program	$200 million	$100 million

Mr. Miller: The $200 million appropriated in FY 1987 for the new Education Department program will finance non-recurring start-up costs such as planning and materials purchases, as well as basic program operations to be financed in future years. Also, as with other Education programs that operate on a forward-funded cycle, considerable time will elapse between when funds are appropriated and when they are used at the local level. Under the President's proposed funding levels, local expenditures of Federal funds will be minimal in FY 1987 and increase to a steady state level in FY 1988 and FY 1989. Thus, we do not expect the 1988 request of $100 million to result in local program cutbacks.

Alcohol, Drug Abuse & Mental Health Administration Treatment Program	$301 million	$124 million

Mr. Miller: P.L. 99-570, the "Anti-Drug Act of 1986," authorized FY 1987 grants to States to expand their drug treatment capacities and reduce waiting lists for drug abuse treatment. In addition to about $124 million which States will spend in FY 1987 from Alcohol, Drug Abuse, and Mental Health Block Grant funds, the FY 1987 Continuing Resolution appropriated $177 million for the treatment grants authorized by P.L. 99-570. The $177 million appropriated for the State treatment grants will be used to support expanded treatment efforts in FY 1987 and 1988, as recommended in the conference report to the FY 1987 Continuing Resolution. In that report, Congress expressed concern that the research community, States, and localities might be unable to maintain program quality while absorbing a $177 million program increase in one year. With that concern in mind,

Congress recommended that funds be used over two years. We concur with that approach.

This approach is similar to current practices for alloting block grant funds which States may use over two fiscal years. Under this spending plan, ADAMHA will provide $213 million to States for FY 1987 drug treatment services and $212 million for FY 1988 services.

Substance Abuse Initiative
Program Summary and Spending Plan

($ in millions)

	FY 1986	FY 1987	FY 1988
Treatment			
BA	117	301	124
(Spending Plan)	(117)	(213)	(212)

Customs Service

Senator D'Amato: At Page 13 of the Customs Service budget justification, we are told: "The acquisition of high technology equipment and other automated procedures.... negates the need for the increased level of staffing provided by the Congress in the FY 1987 Budget."

Is there any detailed study OMB has conducted to prove the accuracy of this statement?

Do we know, for example, what specific level of investment in automation negates the need for 100 customs positions?

Mr. Miller: The acquisition of automated equipment, along with other high technology, has played a significant role in allowing Customs Service personnel to perform their inspection duties more efficiently and effectively. The use of automated equipment, along with changes in inspection procedures, allows Customs personnel to focus their efforts in specific areas. These automated procedures, most notably the Automated Commercial System (ACS) and the Automated Broker Interface (ABI) have allowed Customs personnel to concentrate their inspection activity on high-risk imports. By concentrating on imports which originate from areas with great potential for smuggling or import fraud, Customs inspectors can use their scarce time much more effectively. Low-risk imports can be bypassed by Customs inspectors with a very high statistical assurance that smuggling or import fraud is not occurring.

Customs Service Commercial Operations

Senator D'Amato: $417 million in user fees is expected for 1987. $387 million is expected for 1988. This means that OMB expects $804 million to be received through 1988. Yet OMB proposes appropriations of only $499 million for 1988. Can you tell us what OMB intends for the other $305 million?

Mr. Miller: The Omnibus Budget Reconciliation Act of 1986 (OBRA) provided for an ad valorem fee on all cargo imports,

starting on December 1, 1986, in order to finance Customs Service commercial operations. The receipts from this ad valorem fee may be used only to fund Customs commercial operations, but Congress must make these funds available through specific appropriations action. Consequently, these fees have been placed in a special fund from which Congress can appropriate amounts required for Customs commercial operations.

The Administration has not sought an appropriation from this special fund in 1987 because there is still considerable uncertainty about the user fee collection estimates. The Administration's experience with the other Customs user fee (COBRA fees--on passengers and conveyances) has shown actual collections to be much less than initial estimates. This uncertainty is also occurring with the OBRA user fee estimates for which only a few months of actual data is available.

Because of this uncertainty and the consequent need to have a balance at the start of 1988 as a cushion from which a 1988 appropriation can be made, the Administration has not proposed an appropriation from this special fund OBRA user fee receipt account to fund 1987 Customs commercial operations. If such an appropriation had been proposed, a corresponding rescission of the previously appropriated general funds would be necessary to avoid adding to the deficit.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until March 20 at 9:30 a.m. in this room when we will hear from the Secretary of the Treasury, Mr. Baker.

Thank you, Mr. Miller.

Mr. MILLER. Thank you.

[Whereupon, at 11:30 a.m., Tuesday, March 10, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, March 20.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

FRIDAY, MARCH 20, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Proxmire, and Domenici.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

STATEMENT OF HON. JAMES A. BAKER III, SECRETARY

ACCOMPANIED BY JILL E. KENT, DEPUTY ASSISTANT SECRETARY FOR DEPARTMENTAL FINANCE AND MANAGEMENT

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order.

This morning, the Subcommittee on Treasury, Postal Service, and General Government is meeting to receive testimony from Hon. James Baker, Secretary of the Treasury, and Mr. Robert Tobias, president of the National Treasury Employees Union.

The first witness today is the distinguished Secretary and, Mr. Secretary, I want to thank you for being here with us. I know you have got a lot to do. I also want to thank you and acknowledge your leadership in the air interdiction and drug enforcement area. I know it is not always on your mind because of so many other things, but your commitment is really nationally recognized and your involvement in the Drug Policy Board is clearly understood.

I know that your participation has meant a lot to getting the process started. I have talked with Attorney General Meese and he acknowledges that you are a hard-charging worker for the beliefs in the policy board, as I know the Attorney General is, and I just want to pay tribute to you for taking the time to get involved in that issue.

Hopefully, that Drug Policy Board will move ahead. They are under a little bit of fire, as you know, from the oversight of the Governmental Affairs Committee, but I think we are on the right track.

Also, Mr. Secretary, I want to advise you that yesterday I met with Assistant Secretary Mentz regarding major problems that the American homebuilders organization is having as it relates to Arizona, Texas, California and perhaps other States regarding the installment sales provision as a result of the Tax Reform Act of last year.

The builders and their tax counsel have advised me that the new installment sales rules are really unworkable and will pose a horrendous problem. These builders have undertaken a detailed examination.

As I expressed to you, they are not trying to avoid paying any amount of tax. They realize the neutrality of any tax regulations that are promulgated by you. We explained and had a good opportunity to discuss this with Secretary Mentz. He was receptive to listen to their problems, indicated he would review the issue of disallowances, designated two staff people to work with them, and I want to thank him through you.

The other thing I would like to raise before your testimony, Mr. Secretary, is the installment sales rule. This relates to the effective date of the rule.

The new provision that was agreed upon by the tax conferees has an effective date of taxable years beginning after December 31, 1986. The final version of the provision has an effective date of taxable years ending after December 31, 1986.

The effect of the change is to accelerate for up to 1 year the effective date of the new provisions. That was not the intent of the provision, as I recall very clearly. It is my understanding that the word change was made at the last minute.

I plan to introduce legislation reinstating the additional language and I would appreciate it if you could review your understanding of those closing days of that bill to see whether or not our recollection is correct as to that small change. It makes quite a difference in how that bill is interpreted.

So, with that, Mr. Secretary, please be assured your full statement will appear in the record. If you want any of your staff assistants, or assistant secretaries to join you, they are welcome to do so. Please proceed.

PREPARED STATEMENT

Secretary BAKER. Thank you very much, Mr. Chairman, and thank you for your comments. It is a pleasure for me to be here today, and I will keep these opening remarks brief and, if you have no objection, request that my formal testimony be included as a part of the record.

Senator DECONCINI. It will be, Mr. Secretary.

[The statement follows:]

STATEMENT OF JAMES A. BAKER III

It is my honor to appear before this Subcommittee to discuss the operating budget request for the Department of the Treasury for Fiscal Year 1988.

In January, I testified before the Senate and House Budget Committees and the Joint Economic Committee as one of the President's chief economic spokesmen. We discussed the Federal budget and the Nation's economy. I emphasized that we can work together to eliminate the budget deficit without raising taxes, without sacrificing our defense preparedness, and without cutting into the safety net for the poor and elderly. The President's Budget for Fiscal Year 1988 provides a plan that would shrink the national deficit through asset sales, privatization, and spending reductions. A fairer tax code and the continuation of a five year economic expansion also create a climate favorable to deficit reduction.

Today I come before you, not as an economic spokesman, but as the chief executive officer of one of the government's largest agencies. The Treasury Department budget before you today would generate additional revenues of $2.7 billion.

The Department of the Treasury carries out a variety of functions which are crucial to the running of our Nation's government. These functions include:

- o administering the Nation's tax system and collecting the government's revenues;
- o managing the government's fiscal affairs, paying its bills, and financing its debt;
- o enforcing import and export laws, and firearms and explosives laws; combatting illegal drug trafficking; and protecting the President and Vice President; and
- o advising the President on monetary, economic, financial, and tax policies; and assisting in regulating the banking industry.

To continue to carry out these essential governmental

functions, we are requesting a total FY 1988 budget for the Department of the Treasury of $7.2 billion and 137,783 FTE positions. The FY 1987 revised budget request for Treasury is $6.5 billion and 128,988 FTE.

There are several overall objectives in our FY 1988 budget that I would like to highlight:

I. Our key priority is to maintain an effective tax administration system and provide for an orderly transition to tax reform.

In the past two years, we have made great progress in strengthening the tax administration system's effectiveness. Our budget request is designed to maintain the improvements in the quality of tax processing initiated in FY 1986 and 1987.

We must ensure a smooth transition to the new tax code to safeguard public confidence in our tax system. In the short term, we do not expect to achieve any significant budgetary savings from tax reform due to the need to continue the administration of the previous tax laws through FY 1988. The tax changes occurring in 1987 and 1988 under tax reform will not directly affect IRS enforcement activities until FY 1989 and 1990. Over the longer term, however, we expect the lower marginal tax rates to increase compliance with the tax law and bring in additional revenue.

The IRS is already addressing taxpayers' questions or concerns about new tax law provisions. Many of these provisions, such as the new W-4 withholding requirements, require immediate attention by the taxpayer. Prompt action on our $80 million supplemental request is critical to these efforts and I urge you to give it your full support.

II. Our second objective is to strengthen the capability of the IRS to promote tax compliance and generate revenue.

In FY 1988, we are requesting funds for the second of a major revenue initiative begun in FY 1987, and high-yielding

activities such as increasing staffing to reduce the backlog of delinquent tax accounts, reducing pending tax litigation cases in appeals status, and resolving unreported income cases disclosed through a program that matches third party documents to tax returns.

This request will continue our effort to build a stronger and more credible deterrent against noncompliance with tax laws. In total, we estimate that these initiatives--promoting increased tax compliance and the second phase of the FY 1987-89 Revenue Initiative--will yield $2.4 billion in FY 1988 and $15.6 billion through FY 1992.

III. Our third objective is to support the President's War on Drugs.

In support of the Administration's initiative to combat the importation and use of illegal drugs, the FY 1988 budget for the Customs Service continues our strong commitment to Operation Alliance. The funding will be used to counteract smuggling along the Southwest border, increase operating hours for air interdiction, and enhance drug interdiction equipment.

Customs will be joined in its drug interdiction effort by investigators from other Treasury bureaus and other federal, state, and local government interdiction agencies. The Federal Law Enforcement Training Center is also enhancing its drug enforcement training curriculum.

IV. Fourth, we intend to meet our law enforcement and protection responsibilities.

The requested funds will provide for the U.S. Customs Service to carry out its basic mission to:

- enforce our Nation's import and export laws through the processing of over 7 million formal entries of merchandise, 105 million carriers, and over 300 million passengers;
- collect over $15 billion in revenue; and

- o operate recently acquired capital assets to combat drug trafficking.

The request for the Secret Service includes basic funding for the 1988 Presidential campaign, including the primaries, the conventions, and the early phases of the general election campaign. The Secret Service will acquire sophisticated equipment better to support its protective efforts.

The Bureau of Alcohol, Tobacco, and Firearms' budget provides for the continued collection of all alcohol and tobacco excise taxes and the reduction of the criminal use of firearms and explosives. We estimate ATF excise revenue collections at approximately $10 billion in FY 1988.

In FY 1988 the budget of the Federal Law Enforcement Training Center will provide for the execution of its basic law enforcement training programs.

V. The fifth objective is to manage the Nation's finances and to service the Nation's debt. This includes:

- o continuation of the Administration's efforts to improve management of the Government's cash and credit, and its financial information; and
- o a policy of full reimbursement to Federal Reserve Banks for the fiscal agent services they provide in marketing and maintaining Treasury securities.

VI. Sixth, we must produce enough currency and coinage to meet the Nation's demands. The request for the U.S. Mint will help accomplish this objective. The Bureau of Engraving and Printing does not require annual appropriations for currency production.

VII. Seventh, we must provide for appropriate policy formulation and management oversight of Departmental operations.

The Department develops and carries out the Nation's economic, financial, and tax policies. In this connection, I am chairman of the President's Economic Policy Council.

VIII. Finally, Treasury's budget continues the critical modernization efforts begun in previous years. We believe that investments in information systems pay off generously in increased efficiency over the long run. For example:

- For the IRS, requested funds will provide for the continued development of the Automated Examination System. The new system will enable IRS to collect additional revenue through improved productivity.
- In the Customs Service, we are continuing to develop an import transactions processing system, the Automated Commercial System (ACS) and the Treasury Enforcement Communications System (TECS II). These systems will enhance productivity and effectiveness.
- In the fiscal services, we will continue to modernize the government's disbursement and collection systems, relying on electronic systems as opposed to inefficient and costly paper-based procedures.

In summary, our $7.2 billion request for the Department of the Treasury represents:

- a necessary investment in the IRS to preserve the integrity of the tax system;
- a prudent investment in the IRS to increase tax compliance to make a consequent major contribution to tax receipts and deficit reduction;
- a dedication to law enforcement activities to stem the flow of illegal drugs across our borders; and
- the responsible preservation of the essential governmental functions of the Department.

Mr. Chairman, that concludes my opening remarks. I will be happy to answer any questions that you or the other Subcommittee members may have.

Senator DECONCINI. Let me ask if my good colleague from New Mexico, the ranking member, has an opening statement.

Senator DOMENICI. Good morning.

Secretary BAKER. Good morning.

Senator DECONCINI. Do you have an opening statement?

Senator DOMENICI. No; I do not. Thank you.

Senator DECONCINI. OK.

Mr. Secretary, please proceed.

Secretary BAKER. Mr. Chairman, the duties of this Department are crucial to the smooth functioning of government. As you know, the Department develops and carries out the Nation's economic, financial, and tax policies, as well as vital law enforcement and protection duties.

To continue these functions effectively, we are requesting a total fiscal year 1988 budget of $7.2 billion, with 137,783 employee positions. I would like to highlight several important objectives that I think are reflected in our fiscal 1988 budget.

Our main priority is to effectively administer the Nation's tax laws and to implement last year's tax reform in an orderly fashion. In fiscal years 1986 and 1987, we strengthened the quality of tax processing and now we have to maintain these improvements.

Our second objective is to improve the ability of the Internal Revenue Service to promote tax compliance. In fiscal year 1988, we intend to build a stronger and more credible deterrent against those who do not comply with tax laws, and we are confident that an investment in the IRS this year will yield considerable returns in the form of greater Government revenue in the future.

Our third goal is to support the President's war on drugs through Operation Alliance. The funding will help us combat the flow of illegal drugs along America's Southwest border. It will increase operating hours for antismuggling aircraft and improve the equipment our men and women depend upon in a very dangerous effort.

Fourth, we intend to meet our other law enforcement and protection responsibilities. The Customs Service, the Secret Service, the Federal Law Enforcement Training Center, and the Bureau of Alcohol, Tobacco and Firearms must all be adequately supported.

The fifth objective is to continue our efforts to improve management of the Nation's finances and to service its debt.

Sixth, we have to produce enough currency and coins to meet the Nation's needs.

Seventh, we must provide for policy formulation and management oversight within our departmental offices. And, finally, Treasury's budget continues the critical modernization efforts begun in previous years in the areas of electronic and information systems. Our experience is that investment in these systems pay off generously in increased efficiency.

Mr. Chairman, we believe this fiscal year 1988 budget is frugal, and appropriately so in this era when tight budgets are so important to our

Nation's overall economic health. At the same time, funding this request will significantly improve the ability of the Treasury Department to serve the American people.

I will be happy to respond to such questions as you or any other members of the subcommittee might have.

STAFFING LEVELS

Senator DECONCINI. Thank you, Mr. Secretary. I do have some questions and let me begin by saying that after sitting through 7 days of hearings it is clear to this Senator that OMB has used the FERS and pay raise supplemental process to try to overturn the congressional mandate of last year—specifically, by denying certain select agencies any FERS or pay supplements.

OMB is effectively trying to force agencies to cut staff back below congressionally approved levels. There is no doubt in my mind, at least. For example, the combination of the proposed rescissions, no pay, no FERS for Customs would result in a cut of 2,000 positions; in FERS and pay alone, a total of $21 million that Customs would be forced to absorb out of its salaries and expense accounts. The BATF, the Secret Service, and the Federal Law Enforcement Training Center face similar cutbacks, with no supplemental relief provided by Congress.

If we do pass a supplemental, the charge often comes from down Pennsylvania Avenue of the big spenders, and it seems like it is the same game. I want to know what your assessment is of the impact on your agency by OMB's tactics of picking and choosing who gets a supplemental and who does not.

Secretary BAKER. Mr. Chairman, let me say that with the failure of the rescission respecting Customs, as you undoubtedly know from prior testimony, Customs is going ahead and staffing up to the full amount of the continuing resolution level.

Given the failure of the rescission, we are not going to meet the fiscal year 1988 staffing levels in the President's budget without a reduction in force in Customs of 1,485 FTE.

For the Customs Service it will create a problem that we will have to deal with, and we will make every effort to deal with it.

I believe we are protected in the law enforcement area because we have minimum staffing levels that we have been able to maintain and whatever reductions we are called upon to take we will try and take on the commercial side; we will try and make up for those through increased efficiencies and increased automation.

DEPARTMENTAL OFFICES SUPPLEMENTAL REQUEST

Senator DECONCINI. Well, Mr. Secretary, one thing really troubles me and maybe you can help me understand it. I know of your goodwill and your strong efforts for Customs and the agencies that are under your secretariat, but what stands out like a sore thumb in the Treasury Department's budget is the fact that your departmental office will receive $7,856,000 in supplemental, including $5,650,000 to renovate the

Treasury Annex. You get the full FERS supplement, and I believe half of your pay raise supplement.

I do not doubt that all of these supplementals are fully justified and, quite frankly, I have no trouble in supporting them.

Secretary BAKER. Yes.

Senator DECONCINI. But the perception, whether you like it or not, is that it looks as though you take care of your shop but these other bureaus and agencies under you have to absorb the staff cuts to meet their pay and their FERS.

I do not know how you justify it or whether or not you just got rolled over or ordered from OMB that this is the way it is. If that is the case, I understand their authority and the difficulty of appealing that.

But I wonder if you could help me understand the process of how your supplemental was approved and yet many of the agencies' under you were not.

Secretary BAKER. In past years, Mr. Chairman, Departmental Offices have been cut below the President's request by the Congress, whereas some of the other bureaus and agencies have been increased above the President's request.

Senator DECONCINI. That is true.

Secretary BAKER. And the feeling is and has been that there are certain favorites up here; I think we would all have to acknowledge that there are. My job is to see if we can get enough resources for each and every bureau and agency within the Treasury Department so they can perform their functions.

The Departmental Offices have, in fact, been reduced. They were arbitrarily reduced through the application of the Walker amendment in the House last year. Of that supplemental for Departmental Offices, as you have very correctly pointed out, I guess 80 percent of it or more is for a single, one-time renovation of the Treasury Annex.

Senator DECONCINI. That is accurate.

Secretary BAKER. We do not have to do that. If we do not do it, we cannot use it. The office space is not usable now and it does not make sense to——

Senator DECONCINI. I do not quarrel with that, and that is $5.5 million of the $7.5 million.

Secretary BAKER. There are no program enhancements at all for Departmental Offices. We are not coming here and asking for program enhancements. That is why you have the distinctions.

Senator DECONCINI. Let me ask you this, Mr. Secretary. Did you oppose OMB having the Secret Service, Customs, and the training center absorb their pay increase and FERS? Do you know? Did you recommend that they be included in that supplemental to OMB?

Secretary BAKER. Yes; we did.

Senator DECONCINI. OK, that is good enough for me. At least I am glad to hear it on the record that you see the problem we face and the necessity for these agencies. I was quite sure that was your answer.

INTERNAL REVENUE SERVICE SUPPLEMENTAL REQUEST

Mr. Secretary, the chairman of the full committee, Senator Stennis has sent out the word that it is going to be very hard to provide all of the nonrequested program supplementals in the upcoming supplemental appropriations bill without offsetting the supplemental against some current programs.

IRS, for instance, is asking for $80 million in program supplementals to gear up for the new Tax Reform Act, another $120 million for FERS supplemental requirements. One of the options available to this subcommittee would be to provide your program supplemental of $80 million and offset that amount against your FERS supplemental request, leaving IRS with $40 million for FERS costs in 1987.

What would be an option that you would be willing to swallow in order to provide the IRS with its program supplemental for the new tax bill?

Secretary BAKER. Mr. Chairman, consider the historic nature of the tax reform bill and the job that is confronting IRS, and consider that leadership requires setting priorities. I cannot think of a situation that argues more forcefully for full funding of the supplemental in the case of IRS this year, particularly when it is a net revenue gainer.

I cannot agree with you that we ought to find some way to——

Senator DECONCINI. You think it would be a mistake if we do not fully fund the supplemental.

Secretary BAKER. It would be a terrible mistake not to fully fund that fiscal year 1987 supplemental for IRS when you consider what we have done through tax reform.

Senator DECONCINI. I have not taken a position. The chairman of the full committee has suggested to us that we try to find some offsetting—well, what he says is that we are not going to be able to do this without some offsetting—and that is what we are looking at.

When I looked at the IRS supplemental request with my staff here, that was one of the options that jumped out at us.

Secretary BAKER. Mr. Chairman, let me say that with a department with a budget of $7.2 billion a year, I think it is rather modest to request total program supplementals of only $87 million.

In arriving at that figure, we have done a lot of squeezing, we have looked carefully and we have tried to be very frugal.

Senator DECONCINI. You are telling me that if we mess with that supplemental for IRS, it is going to have a substantial impact on the tax reform bill?

Secretary BAKER. It will have a significant adverse impact on revenues because——

Senator DECONCINI. You will not be able to meet all of the implementation necessary for the tax reform and the enforcement?

Secretary BAKER. Your discussion yesterday with Assistant Secretary Mentz is a good example. We are faced with a significant number of very, very complex issues as a consequence of a historic reform of our Tax Code.

Our best estimate of what is necessary to deal with that through a fiscal year 1987 supplemental is $80 million, and I would hate to see that reduced.

We do not have anything else in here for program supplementals. We are asking only for $1.9 million for the Financial Management Service as a consequence of congressionally mandated relocation of its headquarters, and the $5 million to refurbish the annex. That is it.

Senator DECONCINI. OK.

Senator DOMENICI. Will you yield, Mr. Chairman?

Senator DECONCINI. I will be glad to yield, sure.

GRAMM-RUDMAN-HOLLINGS TARGETS

Senator DOMENICI. Well, Mr. Secretary, what happens if we have already broken Gramm-Rudman-Hollings before we ever get to the supplemental? Do you recommend we waive it?

Secretary BAKER. No; I do not recommend that, necessarily, Senator.

Senator DOMENICI. Well, we already have.

Senator DECONCINI. We are $13 billion over.

Senator DOMENICI. I mean, we are kidding each other. I mean, the House says there is a few billion in budget authority left because they do not count outlays, but we already broke the budget. I mean, we already exceeded the target that we set by a huge amount.

One-half of it is a loss of tax revenues, but one-half of it is overage on the expenditure side.

Secretary BAKER. Let me suggest that with respect to our supplemental, you make the argument that it is self-financing.

Senator DECONCINI. Yes; but we do not get any credit for it is the only trouble on our subcommittee.

Secretary BAKER. We do not get any credit for it, that is right.

Senator DECONCINI. But in the whole picture, you are correct.

Secretary BAKER. It will be self-financing and it will go beyond that.

Senator DECONCINI. In the whole picture of the national deficit, you are correct.

Excuse me, Senator; go ahead.

Senator DOMENICI. We do not get any credit now, anyway, because CBO does not do it that way. We have all been using CBO, so that is a wash.

Frankly, I might just say to my chairman in your presence that I do not know how very many of the supplementals are going to clear the Senate without a super majority. I think there is a clear possibility that anything we do would be challenged on the numbers as having already exceeded the budget targets. So we have got a rough road to hoe.

Senator DECONCINI. Is the Senator finished?

Senator DOMENICI. Yes; on that point, sure.

STAFFING CUSTOMS COMMERCIAL OPERATIONS

Senator DECONCINI. Mr. Secretary, you make your case, and that is what these hearings are for, not that we did not already know the awakening, but I guess I wanted to hear it again early in the morning. [Laughter.]

Mr. Secretary, let me move to another subject. Mr. Bob Tobias of the Treasury Employees Union will testify that adding $150 million and 2,000 additional positions into the Customs commercial arena will bring an additional $1.3 billion into the Treasury next year.

He concludes by saying that these revenues will flow not only from direct enforcement activities, but also from increased voluntary compliance and deterrence of commercial fraud.

What is your reaction to these rather impressive claims, and has Treasury done any independent analysis to verify such statistics?

Secretary BAKER. I do not think we have analyzed those specific statistics.

Senator DECONCINI. Good morning.

Ms. KENT. Good morning, Mr. Chairman.

We have done some initial review of that. Based on our initial review, we find that compliance is quite high—it is 95 percent—and that revenues are really determined more by volumes of imports than by staffing levels.

Staff levels for commercial operations have been fairly flat over the last few years, while revenues are going up by small increments. You will be happy to know that we currently have a study ongoing to analyze the impact of adding additional import specialists to particular import groups.

We are finding that in particular import groups, there may be some incremental revenue, depending on what positions you staff and what imports you look at.

Senator DECONCINI. When might that be finished?

Ms. KENT. Some time early this summer.

Senator DECONCINI. Well, it will not be before we——

Ms. KENT. We could give you some preliminary results, perhaps, before that.

Senator DECONCINI. I want to weigh that because in the whole picture—it does not help us here in this committee necessarily—but in the whole picture, if there is some validity to Mr. Tobias' approach to it in whatever you come up with, even if it is less, it would be interesting and helpful to us.

APS-138 RADAR

As you know, we have been going around and around with the administration on the P-3 aircraft prototype that was mandated in the continuing resolution for Customs. Attorney General Meese has signed off on the transfer of the APS-138 radar and he has written Secretary Weinberger asking for it.

Yet, here we sit waiting for the radar that was authorized and funded under the urgent supplemental last year. My staff checked with the contractor and discovered that the radar was to be delivered to the Navy this week from General Electric, so we know that there is one there.

Can you tell us if you have any information about it? Can we expect this radar or one that is being manufactured to be available soon, and have you had any input or can you do anything to get the Defense Department to do what Congress has told them to do?

Secretary BAKER. Mr. Chairman, I have had recent discussions with the Acting Secretary of Defense in Secretary Weinberger's absence, Deputy Secretary Taft, and he has assured me that the Defense Department will do one of two things.

They will either make available to Customs the money that has been authorized for this, which I think is in their budget, so that Customs can procure one of these A–138 radars, or they will procure one themselves and give it to the Customs Service.

APS–138 RADAR—LEGAL CONSIDERATIONS

They are waiting now for their lawyers to approve doing this because they say there is legislation that they cannot use any of their funds to alter or modify an asset if it will significantly reduce its military mission.

They say it will not improve it. They say it will——

Senator DECONCINI. It will take one out of their inventory.

Secretary BAKER. The P–3 is supposed to find submarines, not drug smugglers, and that that is the mission of the aircraft, so that this will significantly alter or modify it.

I spoke to them within the last 24 hours and indicated that it is a matter we need to resolve because of legislation mandating that they do so in the drug bill.

Senator DECONCINI. Exactly.

Secretary BAKER. We have a contract in the Customs Service with Lockheed to get moving on this one P–3, and if we cannot get the radar by July 1, we would be very hard-pressed to put it on that aircraft.

They have assured me that they will move this expeditiously over the course of the next several weeks.

Senator DECONCINI. As you may know, this one that just came off this week is the last one for more than a year. They are slow coming off, unless it is possible to cannibalize and take one off of an E–2C or something like that.

Secretary BAKER. No, sir; I do not know that.

Senator DECONCINI. So we are really up against it. If they make a determination that national security will be jeopardized by transferring this over to you, we are in a bad situation.

I guess what I am suggesting, Mr. Secretary, is that you do get involved in it and perhaps take whatever the appeals route necessary to have it considered by the commander in chief. He has been very force-

ful and outspoken on this drug issue, and it is hard for me to believe that one radar would jeopardize our national security to the extent that we could not afford to do this in accordance with the law.

Now, I could be wrong. Maybe the Secretary and the President feel so strongly that this country is in jeopardy of some foreign enemy that one radar would do that. I ask you just to look at it and see if you can involve yourself more than what you are doing.

And I want to thank you for what you have done because you obviously have demonstrated to this committee and to this Senator, in particular, that you are committed to it, you know what the law is, you want to move on it, and I guess I am urging you to go a little further up the ladder, if that is possible.

Secretary BAKER. The Defense Department is basing their position on a legal question that they must resolve. Should they conclude that it is not legal, then we must obtain an Office of Legal Counsel opinion before moving it up the line.

Senator DOMENICI. Well, what makes it illegal? What is their contention regarding legality?

Secretary BAKER. Evidently some provision states they cannot use their assets if, to do so, will diminish its military applicability.

Senator DECONCINI. I understand that, and I am worried that——

Secretary BAKER. I may not have stated it accurately.

Senator DECONCINI. I think that is pretty close, Mr. Secretary. What I am worried about is how it is going to come down because they are biased, and yet, you know, they have transferred four F–15 radars over to Customs and this is not the only APS radar that they have in their whole inventory.

They do have others; they need more, but they need more F–15 radars, too. They have an order in for them.

Secretary BAKER. Did I understand you to say there is only one that is available?

Senator DECONCINI. That is right. I am told that the next one will not be available until September. It is called a 139, so we really are in a crunch. If they do not give you this one, we jeopardize the whole prototype program.

Secretary BAKER. Well, Senator, let me say that I have inquired about it to see if we could move it along.

Senator DECONCINI. Thank you.

Secretary BAKER. I will follow up today and see if we can resolve this one way or the other. If it is negative, we will have to look at the options.

Senator DECONCINI. What the options are.

Secretary BAKER. Yes, sir.

Senator DECONCINI. Thank you, Mr. Secretary.

I have some others questions. I would be glad to yield to my ranking member, if he would like to ask a few questions.

Senator DOMENICI. I will try a few, if you would, Mr. Chairman.

Senator DECONCINI. Sure.

ESTIMATED REVENUE RECEIPTS

Senator DOMENICI. Mr. Secretary, could I ask just a couple of general questions with reference to the Treasury Department's modeling of estimated revenue receipts for the country?

This year, CBO has given us a reestimate of what we expect by way of revenues, and one-half of the budget failure to meet its targets, somewhere between $11 and $15 billion, is a reestimate of revenues downward from where they were when we passed the budget resolution last year.

I am wondering, if you do not know about that now, if you might check it for us and see if you concur with that. It is a very large number. If we missed the mark now by $28, $30 billion already, half of it is revenue diminution from the baseline assumption.

I am beginning to think that we are going to have trouble with anything around here budgetwise if we keep missing the budget targets as badly as we are, and I think it would be good for our committee to have in the record, No. 1, if that is the case, what were the principal reasons for missing.

And if you do not agree with CBO—and I do not have CBO's reestimate here, but I would assume you all can get that—could you give us your comparison of why they are different from you?

Secretary BAKER. Certainly. It is my understanding that we were pleased with the course of revenues over the last 3, 4, or 5 months; they were somewhat greater than we anticipated. But we will certainly make the comparison, Senator.

Senator DOMENICI. And then without asking that you go into great detail, I would like to know if you have any judgment for us as to whether the Congressional Budget Office and you are working together on the estimating in a way that is satisfactory to you.

As you know, one of the few exceptions to the independence of CBO and their estimating is that their estimating of revenues is not totally independent. They consult the Joint Tax Committee. That is the only place in this whole estimating mechanism up here where they do not do just their own.

So whatever they are doing is coming from the Joint Tax Committee and they work together with it.

Secretary BAKER. Yes, sir.

Senator DOMENICI. So any answers you would be giving with reference to variation, while technically addressed at CBO, would be inferentially a suggestion that perhaps the Joint Tax Committee and you all are working off different estimates and different models, and I think it would be good for us to know that.

Secretary BAKER. We will look at that.

INTERNAL REVENUE SERVICE STAFFING SATURATION POINT

Senator DOMENICI. I would like to ask you a question with reference to the enhanced receipts that we have been plugging into the budget each year at the request of the administration as a revenue increase predicated upon us giving you more agency enforcement capability; for instance, in the 1988 request you asked for 10,395 new positions and an increase of $824 million for the IRS, and you estimate that will yield $2.4 billion.

I am not differing with you, nor with the sophisticated models that you use to indicate this, but I have a curiosity, in any event. When do you reach saturation point? I mean, it just seems to me every year we say no taxes, and I am not arguing with you. You are a good soldier and part of the team.

But you do plug in $2, $3, or $4 billion and say that comes from enforcement. When do we reach a saturation point, or do we, with reference to adding revenue agents and machines and getting more out of the American taxpayer?

Secretary BAKER. Senator, we are far from the point at which we would reach saturation. Since 1981, in total, direct revenue collections from enforcement efforts, we have moved, by our estimates, from $18 billion a year in 1981 to $48 billion a year projected in fiscal year 1988. That is $30 billion, so we are increasing.

Now, the IRS indicates that we are a long way from the point of saturation. On the margin, we estimate that the revenue initiatives contained in the fiscal year 1988 budget will produce $6 in increased revenue for every $1 spent.

The IRS feels that they could employ 50 percent more personnel, which would be a lot more people, 50,000 to 60,000 more people, over the next 10 to 15 years before the theoretical break-even point would be reached.

Senator DOMENICI. We would have one in everybody's house. [Laughter.]

Secretary BAKER. If you want more revenue, Senator.

Senator DOMENICI. I did not say that yet. We are hard pressed to give you what you want, so saturation is a long way off.

Senator DECONCINI. If the Senator would yield, I would like to follow up on the best definitive answer I have gotten. We have asked IRS that and they do not have a number. At least you are telling us, in your judgment, if I am correct, Mr. Secretary—I am not putting words in your mouth, but you are talking about a 50-percent increase, in your judgment.

Secretary BAKER. We could.

Senator DECONCINI. You could until you started leveling off.

Secretary BAKER. Before we started reaching any break-even point, yes, sir.

Senator DECONCINI. Yes.

Thank you, Senator.

Senator DOMENICI. Well, I think that is a neat way for you to——

Secretary BAKER. That scares you to death, does it not? [Laughter.]

Senator DOMENICI. On the one hand, it scares me to death. On the other hand, it is a neat way. You can put people to work and you can solve the deficit problem. In any event, tell our colleagues to start preparing for them; there are at least some open jobs at IRS.

CREDIT REFORM

Mr. Secretary, there is a credit reform proposal that the administration has officially sent up here. You are aware of that?

Secretary BAKER. Yes, sir.

Senator DOMENICI. How would it impact on the Treasury Department's budget, if at all, and how would it impact, as you see it, on this subcommittee?

Secretary BAKER. With respect to our budget, Senator, we have asked for $13.5 million and 144 FTE to implement the proposal. If passage of the proposal is likely, I think we would propose a supplemental of $8.5 million which would be necessary to permit us to engage in the startup activities that would be required.

FROZEN APPROPRIATION ACCOUNTS

Senator DOMENICI. I have a couple of what ifs, and I think I will submit them, with reference to a freeze. If that were to occur, what would the reallocations be? I think since there are a lot of suggestions around about a freeze, I would submit the question for you to tell us what will happen if that is the case, if you would do that for us.

Secretary BAKER. If there is an across-the-board freeze in all appropriated accounts?

Senator DOMENICI. Yes; if the 1988 appropriations were frozen at the 1987 levels, what would the impact on your Department's activities be?

Secretary BAKER. All right, sir.

Senator DOMENICI. And I think in that respect we are asking for the most sensible one, not the most draconian one.

Secretary BAKER. I understand.

Senator DOMENICI. What would you really do? If you were told that is all you have got, how would you do it, so we would be able to sense what effect it would have?

BIENNIAL APPROPRIATION

I wonder, on a general proposition—we have asked, with the chairman's consent, in every subcommittee a general question. I am just going to tell you its substance.

Would you prefer a 2-year budget and 2-year appropriation for your Department, and if so, why and what difficulties might it yield, and also how much of each year's appropriation process for you is almost a repeat of the previous one?

I think that gives us some sense as to the merits of 2-year budgeting, and we would like you to submit that for the record, if you would.

Secretary BAKER. We will do that, Senator.

Senator DOMENICI. I have something on Customs user fees, but I am sure you do too, Mr. Chairman, so let me go to oil for 1 minute and then you can do Customs.

Senator DECONCINI. If the Senator would yield?

Senator DOMENICI. Sure.

Senator DECONCINI. Our colleague from Wisconsin has to go chair the Banking Committee and he has a question he would like to address to the Secretary, if the Senator does not mind.

Senator DOMENICI. Of course.

Senator PROXMIRE. Thank you very, very much, Mr. Chairman, and thank you, Senator Domenici. I very much appreciate that.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION

The question I would like to ask, Mr. Secretary, is that I hope you will reconsider your position on the banking bill which is now before the Senate, the FSLIC recapitalization bill. I voted in the committee to give you $10 billion; it is $7.5 billion, as you know. You wanted $15 billion, and maybe we can increase it on the floor; I hope we can.

But that bill is so important to our banks, so important to small businesses that borrow from our banks, because what it does is it arrests the growth of nonbanks. Now, let me just take 1 minute to indicate why.

The most rapidly growing bank in the world last year was the Greenwood Trust Co. Bank, a nonbank owned by Sears Roebuck. Their deposits increased by 38-fold. They went from $27 million to $1.048 billion, an astonishing increase.

Now, Sears, of course, can do it again, and pretty soon these nonbanks that are owned by some of the biggest conglomerates in the world are going to begin absorbing a very large share of the deposits that go to our banks and we are going to have, I think, an upsetting situation.

The most rapidly growing big bank was also a nonbank; that is the Boston Deposit & Trust Co., owned by American Express. That grew by 127 percent last year to over $6 billion.

They are still relatively small compared to Citibank and some of the others, but they are on their way, and it seems to me that our legislation makes an awful lot of sense in terms of preserving a pluralistic banking situation that will permit competition and preserve the situation we have had in this country for so many years of separating commerce and banking so you do not have that conflict of interest, that safety and soundness problem, and so forth.

I just wanted to call that to your attention. I know you are on top of it, but it would be very helpful if you would consider that.

Secretary BAKER. Mr. Chairman, we have a rather substantial philosophical difference, I know, with respect to whether nonbank banks are good or bad and with respect to whether there ought to be greater powers for our banks so that they can compete in the real world.

Senator PROXMIRE. Well, I think they should have more powers.

Secretary BAKER. But your bill says they are not going to have any more powers.

Senator PROXMIRE. Well, no. In my bill as originally introduced, I provided for new powers. I could not get that through the committee, so what I did was I provided a moratorium with a commitment, and we have it in writing; we put it right into the bill that we are going to consider this ourselves and act on it within the next year.

Secretary BAKER. Mr. Chairman, your bill even forecloses the Federal Reserve from granting new powers to the banks through the normal regulatory process.

Senator PROXMIRE. That is right, and the Federal Reserve supports my bill.

Secretary BAKER. I really do not believe that a majority of the Board of Governors of the Federal Reserve do support your bill.

Senator PROXMIRE. Well, the chairman does, and I think he has got more judgment than all the other guys put together. [Laughter.]

Secretary BAKER. I think the chairman does support your bill.

Senator DECONCINI. He is on your side.

Senator PROXMIRE. That is right. That proves it. [Laughter.]

That proves he is a man of really good judgment. [Laughter.]

Secretary BAKER. Mr. Chairman, let me say one final thing. We were extremely anxious to move quickly and expeditiously an FSLIC recapitalization bill. We believe there are problems in our thrift industry out there.

I think there is some sentiment in the House of Representatives to do just that. I hope that we would not find ourselves in a situation where these collateral provisions—nonbank banks, prohibition against additional powers, all the rest of it—would slow down the process which is, in terms of safety and soundness, one of the most important things we have to address in financial services today. I know you and I agree on that; that you would not let those collateral issues slow down our recapitalization of FSLIC.

Senator PROXMIRE. Well, that is right, Mr. Secretary. Let me just say that the overwhelming view of the regulators—every single regulator who has an interest in this—says that it is important for the future safety and soundness of our savings and loan institutions that we plug the nonthrift as well as the nonbank loophole, and do it now.

Secretary BAKER. Well, I think the most important thing we need to do—and I think there is a general agreement on the part of all the regulators to this effect—is to recapitalize the Federal Savings and Loan Insurance Corporation, and not get bogged down in these collateral issues.

Senator PROXMIRE. Well, I would agree wholeheartedly that we have to push this bill, and push it fast. The majority leader just told me on the floor a few minutes ago that he intends to take it up promptly and do all he can to get it through in a hurry. I think we can, and I earnestly hope we can get it through the House.

I want to express, anyway, my great admiration and respect for you.

Secretary BAKER. That goes both ways.

Senator PROXMIRE. This young man was a graduate of the Hill School in Pottstown, PA, as am I.

Secretary BAKER. You see, he is biased. [Laughter.]

Senator PROXMIRE. And that is not all that is good about him; he is a fine Secretary of the Treasury.

Thank you very much.

Secretary BAKER. Thank you, Mr. Chairman.

Senator DOMENICI. The chairman indicated he would return shortly, Mr. Secretary, and asked if I would go ahead and proceed.

STRIPPER WELLS

Mr. Secretary, among all of the various great qualities that you possess, one that pleases me greatly is that you are from Texas, and therefore you know something about the oil and gas industry, and I assume you are somewhat concerned about the shrinking of the domestic oil and gas industry in the United States in terms of the resources of our country.

Frequently while that process is going on, the Internal Revenue Service, which is in charge of enforcing some very, very difficult definitions with reference to stripper wells and the like, causes a little more trouble out there than perhaps you are unaware of until it bubbles up to your level.

IRS, Mr. Secretary, attempted to repeal through regulations the stripper well exemption in the windfall profits tax as it applies to imputed stripper well oil. I do not have to tell you about the shape of the industry and how much havoc these kinds of changes midstream cause, especially while the industry is fragile and the marketplace is threatening to cause to be closed literally thousands of stripper wells.

I raised two windfall profits tax issues with Commissioner Gibbs and I now have a response. On the issue of tax exemption for stripper wells, Commissioner Gibbs' letter is reasonably good news because it does confirm a simple proposition, the once a stripper, always a stripper rule, which had been part of the DOE regulations.

In other words, if it varies from time to time, which you know it does—that is, the flow—if it was a stripper, it is always a stripper. If it goes up two barrels and passes the eight barrel level, they do not go back and redefine it and if you wait another year, it may be back down.

Secretary BAKER. I thought it was a 10-barrel level.

Senator DOMENICI. Well, I used 8 as an example, but 10 is the number.

I would like to ask you to oversee the process to ensure that regulations are issued that are consistent with the congressional intent in this regard.

Secretary BAKER. Senator Domenici, I am already doing that. When it became apparent that the IRS was moving in this area, the industry was very concerned and agitated.

I and the Assistant Secretary for Tax Policy in the Department of the Treasury sat down with industry representatives and made it clear to them that we were not going to change the Department of Energy's definition of the term for windfall profits tax purposes. We made it clear to them that in crafting these regulations we would consult with them and solicit input from the industry.

I really believe that they are much more relaxed about it now. I have not seen Commissioner Gibbs' letter, but I suppose that is the point that the letter makes.

Senator DOMENICI. That is true, Mr. Secretary, with reference to once a stripper, always a stripper.

Secretary BAKER. The definition of property.

Senator DOMENICI. That is correct.

Secretary BAKER. Yes.

Senator DOMENICI. But it is not true at all with reference to the definition of taxable crude oil. As you know, under the windfall profits tax, we had a definition. Now, we have IRS saying it will act on a case-by-case basis with reference to taxing the liquid hydrocarbons recovered inside the natural gas plants through the processes such as adsorption, absorption, refrigeration, and fractionation processes.

Secretary BAKER. Yes.

Senator DOMENICI. At one point, there was a uniform definition, and he could not answer that with specificity. He indicated it was troublesome and, quote, "The resolution of this issue in a particular case is highly dependent upon the surrounding facts and circumstances."

What that really means is that the entire industry out there will never know the definition of crude oil in that respect that is taxable under the windfall profits law; it will be case by case.

I really believe that that is no way to do it and I think it can be done in a manner that is consistent across the board. The Government is not going to win or lose an awful lot, but I tell you a whole lot of people are going to win or lose a lot of consternation, a lot of auditing, a lot of accounting, and perhaps even a lot of these new agents that we put on, running around to see where they can pick up some additional money with their own definition.

Secretary BAKER. Let me make sure I understand you, Senator. I believe we have met and are meeting industry concerns about the once a stripper, always a stripper problem.

Senator DOMENICI. That is correct.

Secretary BAKER. At the same time we are moving forward with our regulations.

Senator DOMENICI. And we hope you will expedite the regulations so it will be finished.

Secretary BAKER. Yes, sir.

Senator DOMENICI. Yes.

Secretary BAKER. Now, on the definition of taxable crude oil, are you saying that you would like to see us move with regulations? As far as I know, there are no proposed regulations.

Senator DOMENICI. It is our understanding that the industry has suggested regulations that would create some homogeneity in the field, and whether or not Treasury is considering regulations or not at this point, I do not even know.

But it seems to me that whatever can be done that is prudent that will stabilize so that it is not a case-by-case situation. I urge that you in some way stabilize the definition so that it is not necessarily only enforceable on a case-by-case basis.

I am advised that it is being done through a technical advise memorandum at this point.

Secretary BAKER. What is being done? We are coming up with a regulation through a technical advice memorandum?

Senator DOMENICI. You are defining certain liquid hydrocarbons recovered inside the natural gas processing plants to fall under the definition of taxable crude oil in the windfall profits law.

Secretary BAKER. Does the technical advice memorandum say that if the hydrocarbons drop out naturally at the point of production through a normal separation process, it is oil; otherwise if you have to ship it to a cracking plant, it is not taxed under the windfall profits tax?

Secretary BAKER. I am not familiar specifically with this, Senator. Let me say that we will look at the issue and ensure that whatever the IRS is doing, they do it in a reasonable way.

Senator DOMENICI. I do not want to take much more time.

Senator DECONCINI. Take your time.

Senator DOMENICI. Maybe the best way to do it is to say that the Congressman from our State in a district with large production and I sent a very specific letter to the Commissioner. Why don't we just submit the letter for your response and thus we will have it, you getting exactly the same request of these two Members of Congress, at least this Senator and my Congressman.

If you can respond to that for the record or to us with some kind of a communication, we would greatly appreciate it.

Thank you.

Senator DECONCINI. Thank you. Without objection, that letter will appear in the record.

Senator DOMENICI. I appreciate it.

[The information follows:]

Letter From Lawrence Gibbs, Commissioner, Internal Revenue Service

MAR 17 1987

The Honorable Pete V. Domenici
United States Senate
Washington, DC 20510

Dear Senator Domenici:

During our recent testimony before your subcommittee you raised a number of questions regarding the proposed regulations relating to the term "stripper well property" for purposes of the windfall profit tax, and the definition of the term "taxable crude oil." The following information is to provide you an update on the present status of the resolution of these issues in both the IRS and Treasury Department.

Definition of "Stripper Well Property"

As you may recall, in 1983, the Service published proposed regulations defining the term "stripper well property" for purposes of the windfall profit tax. In response to concerns expressed by representatives of producers, the Treasury Department assured the industry that the proposed regulations were not intended to change the general thrust of the Department of Energy rules. The proposed regulations have not been finalized. In 1986 another set of proposed regulations was published defining the term "property" for windfall profit tax purposes. This new set of proposed regulations likewise was not intended to deviate from the Department of Energy definition of that term for windfall profit tax purposes. To the extent that the June 1979 energy regulations treat a property as a "stripper well property," that property will be so treated for windfall profit tax purposes.

Treasury and IRS officials have held three separate meetings with industry representatives concerning the 1986 proposed regulations. The industry representatives informed us that the industry desires final regulations, and we informed those representatives that the comments and suggestions made at these meetings will be carefully considered with a view toward adoption of reasonable regulations. We hope that this process will be completed in the near future.

Definition of "Taxable Crude Oil"

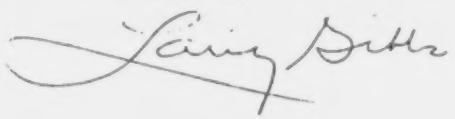
No proposed regulations on the definition of "taxable crude oil" have been published. This is a subject of ongoing discussions between the Service and Treasury Department.

The technical advice memorandum to which you referred was issued June 23, 1986. The memorandum sought to apply the Department of Energy rules for determining whether the product recovered is condensate, treated as crude oil, or is natural gas liquids. The Department of Energy regulations apply for windfall profit tax purposes. The resolution of this issue in a particular case is highly dependent upon the surrounding facts and circumstances. Each case must stand on its own merits. The memorandum does not contemplate, and should not be construed, as

imposing a tax on natural gas liquids or on a producer who has not been compensated for the value of condensate saved and sold.

With best regards,

Sincerely,



LETTER FROM REPRESENTATIVE JOE SKEEN, VICE CHAIRMAN, HOUSE SUBCOMMITTEE ON TREASURY, POST OFFICE, AND GENERAL GOVERNMENT, AND SENATOR PETE V. DOMENICI, VICE CHAIRMAN, SENATE SUBCOMMITTEE ON TREASURY, POST OFFICE, AND GENERAL GOVERNMENT

March 18, 1987

Hon. Lawrence Gibbs, Commissioner
Internal Revenue Service
Washington, D.C. 20224

Dear Commissioner Gibbs:

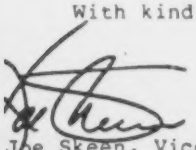
Thank you for your prompt response to the questions posed to you during our subcommittee hearings. We appreciate your assurance that the IRS definitions of "stripper well property" and "taxable crude oil" for windfall tax purposes will conform with former Department of Energy regulations. However, there are still several technical departures from the "June 1979 energy regulations" that IRS is proposing that need to be addressed.

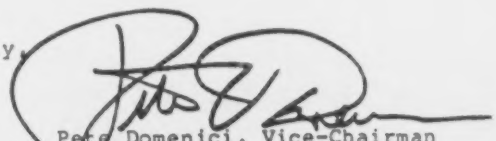
Specifically, the definition of "imputed stripper well oil" under the proposed windfall profit tax regulations would yield substantially different computations than would be the case under the "June 1979 energy regulations". Additionally, technical advice memorandum 864008 imposes the windfall profit tax on liquid hydrocarbons that are recovered under non-atmospheric conditions by non-mechanical processes, inside natural gas processing plants. This is clearly contrary to the intent of Congress. Lastly, the definition of "stripper well property" under the proposed windfall tax regulations could effectively taint the otherwise properly constituted stripper well properties due to a new transfer rule that did not exist under the "June 1979 energy regulations."

Since these residual issues could have a significant impact on many producers at a time when the industry can least afford new taxes by IRS "interpretation," we would urge the prompt resolution of these residual issues consistent with Congress's repeatedly expressed intent.

With kind regards, we are

Sincerely,





Joe Skeen, Vice-Chairman
House Subcommittee on Treasury,
Post Office & General Government

Pete Domenici, Vice-Chairman
Senate Subcommittee on Treasury,
Post Office & General Government

Senator DECONCINI. Go ahead, Mr. Secretary, read that, and maybe you want to respond now. That is fine, too.

Secretary BAKER. It says that liquids that fall out from the gas, whether they fall out at the point of production or in a natural gas processing plant, constitute oil for the purposes of the windfall profits tax.

Senator DOMENICI. Right.

Secretary BAKER. It is that with which you disagree?

Senator DOMENICI. That is correct.

Secretary BAKER. We will take a look at it, Senator.

Senator DOMENICI. I appreciate it.

Senator DECONCINI. Mr. Secretary, let's get back to things that I understand, although I do understand stripper wells. It is no secret in the drug area and air interdiction, in particular, that there is a confrontation brewing, if not already there, between the Coast Guard and the Customs Service as to who should and will operate the air interdiction mission.

Though the law is very clear now, including the command and communication efforts, I totally disagree that the Coast Guard is better equipped to handle the air interdiction. I know that you have spent some painful afternoons arguing this point before the Drug Enforcement Policy Board.

Frankly, I would object to any effort within the administration or outside to shift these assets and responsibilities from Customs to Coast Guard. What is your observation of this happening and your position as far as maintaining, under your Cabinet area, this very important enforcement mission?

Secretary BAKER. Mr. Chairman, let me say that I agree with you. We do, however, appreciate the contribution that the Coast Guard is making to the drug enforcement effort.

As I understand it, the law requires the Drug Enforcement Policy Board to make a recommendation to the Congress with respect to the agency which should have lead responsibility for interdiction. The Customs Service has had that responsibility historically. It does, as you point out, have the assets in place and operating, and we would obviously oppose an effort to take that away.

At the same time, I think that over the past several months we have worked cooperatively with the Coast Guard in establishing the C^3I centers. I think there may be a role for both, but we would oppose an effort to take away arbitrarily a mission that has been the mission of the Customs Service for many, many years.

Senator DECONCINI. Let me say, Mr. Secretary, I agree that the Coast Guard plays and can play a major role. I have discussed this with Admiral Yost and indicated that all he needs for this Senator is to lay before him a responsible request or a reasonable request—and maybe even if it is unreasonable—for a transfer of assets, he will have a great deal of support here, and I think from other members, too.

Senator DOMENICI. Sure.

Senator DECONCINI. I think the C^3I center confrontation in Miami between the Coast Guard and Customs has finally been resolved. This is what we wanted instead of the turf fights, which troubled me immensely.

Secretary BAKER. We came very close, as you know, to working out an overall agreement——

Senator DECONCINI. I know you did.

Secretary BAKER [continuing]. In the fall of last year——

Senator DECONCINI. Maybe there is still some hope.

Secretary BAKER [continuing]. Which at the last minute fell through because there was some hesitation on the part of the Department of Defense with respect to the increase of the number of P–3's operating out there.

But I think the matter can be resolved, Senator. I do not think it is going to go to that, but if it got to an all-or-nothing type of determination, you can bet your life we would——

ORGANIZATIONAL PLACEMENT OF THE COAST GUARD

Senator DECONCINI. Let me ask you this. I just started thinking about how to make this easier for everybody. Have you ever given any thought about putting the Coast Guard back under the Secretary of the Treasury? It would then be under one secretariat and you could really mandate the cooperation even if you decided the Coast Guard ought to do everything in the air or over the seas? I feel it would be so much easier.

Secretary BAKER. Then you would have all the drug enforcement agencies and assets in one department, save DEA.

Senator DECONCINI. Exactly.

Secretary BAKER. Of course, the Coast Guard used to be in the Treasury Department.

Senator DECONCINI. I know, and I do not know the history for the change.

Secretary BAKER. There was a proposal made to that effect in early 1985 by some former Coast Guard admirals, as I understand it——

Senator DECONCINI. Is that right?

Secretary BAKER [continuing]. On the theory, interestingly enough, that they would have a better shot at funding if they were in the Department of the Treasury than if they were in the Department of Transportation.

Senator DECONCINI. Nothing personal toward Secretary Dole, I am sure.

Secretary BAKER. Nothing at all.

But the point is I think we ought to avoid the suggestions about—to be very honest with you, I think we ought to avoid these suggestions about taking responsibilities and roles away from agencies and departments that are performing them very well.

The Customs Service is performing extremely well, as you know. By the same token, it would seem to me that the Coast Guard is performing its mission and function very well.

Senator DECONCINI. They are.

Secretary BAKER. What you are suggesting, of course, is some sort of a tit for tat.

Senator DECONCINI. Well, I am really not suggesting it yet; I am just thinking out loud. I would just like to continue to get across to Customs, and I know you would, too, and to the Coast Guard, that there is a battle to be fought out there and these turf battles are not the battle, as we all know.

Secretary BAKER. That is right.

Senator DECONCINI. I just have two more questions, Mr. Secretary, and then we will let you go.

Senator DOMENICI. He has enough trouble with the Japanese.

Senator DECONCINI. Yes; for sure.

Senator DOMENICI. We do not need to put him in the middle of this one. [Laughter.]

Secretary BAKER. That is right.

Senator DECONCINI. I will not put him in the middle today.

ARMS SMUGGLING

Mr. Secretary, Senator Pryor, of the Governmental Affairs Committee, and I have been extremely concerned about the growing threat of arms smuggling from the United States to foreign countries that are known to have strong terrorist group activities. Customs has apparently confirmed this growing threat in recent congressional testimony.

One possible solution that I have considered and talked to Senator Pryor about is the formation of a Treasury-Department of Defense team of experts to hit the major trouble spots at our ports and to try to catch the arms smugglers off guard.

Treasury has tremendous expertise in the area of weapons trafficking and illegal export of high technology, while DOD has similar expertise in the interests of illicit trafficking, et cetera.

Would you give some consideration, or maybe you have thought about the problem and maybe there is a better solution to consider it, or maybe it is not that big a problem, but do you have any comments regarding a special team to move on this subject matter?

Secretary BAKER. Mr. Chairman, we are aware of the suggestion, but we really have not had an opportunity to study it in depth. We would like to do so and we would be pleased to meet with representatives of DOD about it.

We have an operation in the Customs Service that is designed to prevent unauthorized export of high technology to nations that are hostile to the United States.

Senator DECONCINI. Exodus.

Secretary BAKER. And we have the normal role of the Bureau of Alcohol, Tobacco and Firearms as well in preventing the unauthorized export of weapons. We would be happy to study the proposal.

Senator DECONCINI. I would just suggest, Mr. Secretary, within the confines of your resources, that you might look at that problem. Maybe it is not as big as Senator Pryor and I believe it is, and some of our information does come from Customs, but I would appreciate it if somebody in your shop would take a look at it.

Secretary BAKER. Sure.

FEDERAL RESERVE BANK REIMBURSEMENTS

Senator DECONCINI. My last question, Mr. Secretary, is one to which I welcome your response. During the March 6 hearing with the Bureau of the Public Debt, your people testified that the major reason for the large increase in the Bureau's budget over last year was principally an increase in reimbursement to the Federal Reserve Bank.

I asked whether there was a statutory reason for these reimbursements and the witness said that our policy for reimbursing the Reserve was a historical policy and not one that is mandated by law.

We also learned that the Federal Reserve had net revenues of $14 billion last year, and in light of the huge amount of revenues coming into the Federal Reserve Bank, why, other than historical practices, should we approve a $37.3 million increase requested for Federal Reserve Bank reimbursement, and what would be the effect if we cut it in half or did not do it?

Secretary BAKER. Well, I think the Federal Reserve feels strongly, and I have talked to the Chairman about this. This is something that we worked out between us. There is legislation that enables us to do this and we have done it historically; it does not require it, but it enables it.

I think the Federal Reserve feels that they have some obligation to operate as a business, if you will, and show what their actual costs are, and for book purposes, at least, show that they are getting paid for the services they perform for the Treasury as fiscal agent for the Treasury.

That is the reason we did it. It has been traditional and it is permitted by law.

Senator DECONCINI. So what position is that going to put you in with the Federal Reserve if we did not appropriate the whole $37 million, or only part of it? What are you going to do? Are you going to be able to talk to the Chairman there or are you going to have to avoid his phone calls?

Secretary BAKER. I will not have to avoid his phone calls, but we hope you will appropriate it because we think it is fair.

Senator DECONCINI. It will put you in a bad position?

Secretary BAKER. To be very honest with you, it is the fair way to handle it. They do perform these services for us. We traditionally have paid them. When things got really tight there, we thought, maybe we can squeeze a little here. That is not what we should do.

Senator DECONCINI. Even though they can afford it?

Secretary BAKER. Well, that is right, since they print money. [Laughter.]

Senator DOMENICI. Chairman Volcker said he was going to raise interest rates just to make him squirm.

Senator DECONCINI. He did say that?

Senator DOMENICI. Yes; he told him that.

Senator DECONCINI. Is that right?

Secretary BAKER. What do you mean him? What is this him stuff? [Laughter.]

You guys would be the first.

Senator DOMENICI. You are right.

Senator DECONCINI. Mr. Secretary, thank you very much. I appreciate you and your staff for your efforts, all of the information you have provided, and the cooperation you have given us.

Does the Senator have another question?

Senator DOMENICI. Please.

Senator DECONCINI. Oh, excuse me. I yield to my friend.

CUSTOMS USER FEES

Senator DOMENICI. Mr. Secretary, I am going to submit for the record a series of questions about the Customs user fees just for your analysis and some of your observations about how it is working and how some suggested alternatives might work better.

Secretary BAKER. We will be glad to look at it.

SUBCHAPTER S ACCOUNTING PROVISIONS

Senator DOMENICI. One question on the new Tax Code on the calendar year accounting provision. There is a great deal of concern, and I represent a small State, over the provision which requires partnerships, S corporations and personal service corporations to conform their tax years to those of their owners, in addition to the increased workload this provision places on the accounting profession and additional costs to businesses of closing their books twice and filing two sets of returns next year.

Secretary BAKER. Is that not a one-time occurance, though?

Senator DOMENICI. It is, but it will occur for literally hundreds and hundreds of thousands in 1 year.

Secretary BAKER. Yes, sir.

Senator DOMENICI. You know, we talk about giving you $800 million more to enforce our laws and make more money for us, but these kinds of things cause taxpayers to write letters telling us to give you less, you know, and we do not need but a few thousand.

Secretary BAKER. Senator, if I am not mistaken, is that not statutory?

Senator DOMENICI. Well, it is, and so I had two questions. First, will this not place an increased burden on you all, and have you accommodated that in your workload? Second, would you look at it with reference to how important it is to the tax reform laws to see if there is not some way we could support some modification?

This would not necessarily be a tax loser, I do not. This is something to get everything on the same calendar year. Clearly, it seems to me

that unless this is terribly important to the tax reform package, it is the kind of onerous thing that has been imposed in this tax reform which causes many people to wonder whether we have reformed or not.

Secretary BAKER. Senator, we will take a look at it. Let me say that in terms of implementing it, we have given consideration to the fact that this will require more effort by the IRS, and that is, I am sure, part of what that $80 million supplemental is designed to cover.

On the other hand, it is statutory. It was an act of the Congress. Tax reform was so comprehensive and such a large undertaking that we are going to find that perhaps we made some mistakes.

The law required us to come out with a much more comprehensive and detailed W–4. We have already found out that compliance with that moved us in the wrong direction, and we have resolved it. But, we will take a look at this and see what the circumstances are.

ADMINISTRATIVE POLICY ON CORPORATE TAKEOVERS

Senator DOMENICI. My last question, Mr. Chairman, with your permission, is a general one of the Secretary.

Mr. Secretary, in the Department and Cabinet-level positions that give advice to the President, is there any single place where the effect on the industrial side of the United States of takeovers and the threat of takeovers that result in dramatic restructuring of companies to avoid takeovers, aside from whether there is any malfeasance—I mean, perhaps if there are cheaters that are leaking the information as insiders, they are going to suffer the consequences of a generic insider law that says you cannot do that——

But is anybody in the administration just comprehensively looking at the mania that is out there just to assess whether it is a good policy or a bad policy or should any changes be effected in American substantive law regarding it?

Secretary BAKER. Yes; we are, Senator Domenici. The President's Economic Policy Council has those issues before it now. We examined them in either late 1985 or early 1986. We examined issues such as junk bonds, greenmail, poison pills, and that sort of thing, including, the sufficiency of penalties, laws, and regulations relating to insider trading.

In the aftermath of the *Boesky* case, we concluded that it was important not just for the legislative branch to reexamine these issues, but for the executive branch as well. We are in the process of doing that.

We concluded back in 1985 and 1986 that there was no need for legislation. We think with respect to insider trading that what we are seeing now is the law working. We are seeing the system work and we are seeing the people who were breaking the law being apprehended and punished.

But we are in the process of taking another look at those issues that I mentioned other than insider trading.

Senator DOMENICI. Well, Mr. Secretary, I just want to say, and, Mr. Chairman, I want to just share this for 1 minute. I have now received summaries of about 8 or 10 American corporations that have become

successful as giant American companies because they had to have a 10- to 15-year research and development program.

I mean, they have been successful in selling this product made of this alloy, but that was a 10-year-ago research effort and they are just about ready now to remain viable because they have the next item.

Many of them are now showing that there is not going to be a next item for them because to the extent that they have $250 million in three research facilities, there is no question that in the current business climate, as promoted principally by the Harvard Business School in its education of their MA's, it is the bottom line and the stock market that that CEO has to get reported to and about every hour or he is failing.

That research is at this point in time not part of it because it is yielding nothing. One major company right now divested all of it, borrowed $3 billion to avoid a takeover, and their bottom line is neat. I mean, their stock went up, but their chief executive cannot under any circumstance, short of buying another company 20 years from now that has money for research—say they are going to have products coming down the line because they have got no research.

I just think somehow or another something is wrong with that. Unless the United States intends to set up its own research facilities as a government to answer the questions of the future, it really does disturb me.

Secretary BAKER. Senator, as you know from our private discussions, that, in my view, is the most forceful argument for taking a look at some of these practices. If we are talking about competitiveness in this country, it is extremely important that we find a way to enhance private sector research and development.

As you quite correctly point out, expenditures for research and development do not operate on the bottom line. If you are always worrying about your back side, it is pretty tough as a chief executive officer to say we are going to put it in R&D.

In my personal opinion that is one of the most forceful arguments for taking a look to see what, if anything, might need to be done. I am not sure that that alone would argue that something has to be done, but we need to confront the problem you pointed out.

Senator DECONCINI. If the Senator would yield, I agree with that thrust, Mr. Secretary because it concerns me in my State. A longstanding, historical company that has several plants in the aerospace industry had to sell them in order to preserve and not be taken over in what they considered a hostile takeover.

The management of that company, at least, in Arizona was devastated to see them sell this aerospace and defense area that they had worked so hard for and put so many hundreds of millions of dollars into research.

I do not know what the answer is either. I am frustrated about it. Did not the Packard Commission address some of those issues and make some recommendations? I remember reading a summary of that and I thought they made some legislative suggestions.

Secretary BAKER. I do not recall.

Senator DECONCINI. I will have to go back and see. You do not recall?

Secretary BAKER. I do not recall that. On the other hand, you have to balance considerations such as Senator Domenici has made with the obvious desire on the part of all of us that we have as free and open a market and system that moves as much in the direction of rewarding shareholders as we can. But we have got to find a way to balance them.

Senator DECONCINI. It seems like the speculativeness of those shareholders has become more important than the long-term goal of the United States to be competitive, as the Senator points out.

Secretary BAKER. Absolutely.

Senator DECONCINI. And how you get to it, I do not know, but I am glad someone is taking a look at it on the administrative side because I am a little worried that in the antitrust area, we have a real thrust here going on in the Judiciary Committee that may go too far.

Secretary BAKER. Yes.

Senator DECONCINI. But I am glad that Senator Metzenbaum, quite frankly, is holding hearings and at least stirring up some thought on what you can do to maybe slow it down, but it concerns me when we start doing it without the expertise.

Secretary BAKER. Let me, Mr. Chairman, not let that pass without saying that another part of the President's competitiveness package is revision of our antitrust laws to let us become more competitive, not tightening up on those laws, as well as product liability reform and a whole host of other things.

Senator DECONCINI. Right.

Secretary BAKER. I think we all agree that we are not going to cure this competitiveness problem unless we approach it broadly and comprehensively. It is not a case of legislating in this one area or just that one area. We have to do many things.

Senator DECONCINI. Do you have anything else?

Senator DOMENICI. No; I would just say it is really interesting to me, Mr. Secretary, and I do hope that as your group looks at it for the President that this simplistic notion that I hear around that, well, this is just part of the free market that we ought not to regulate—I mean, that is absurd.

The whole corporate structure in the United States—there is no free market; it is all a regulated market. We have the Securities and Exchange Commission. Stockholders' rights and all the public responsibilities are a matter of regulation; they are the creatures of regulation.

It happens at this point in our history for some reason that a smart group of people have found a way, consistent with that set of regulations—not deregulation, but consistent with that set—to make inordinant amounts of money by just threatening a takeover.

I mean, if ever there was something that cannot sell as part of the capitalistic system that I think these three people—Dennis DeConcini, Domenici, and Jim Baker—are proud of, and we want it to work—if

there is anything you cannot justify, it is the inordinant amount of money that a few smart arbitrage people are making by just buying into a company and saying we are about to take you over.

I mean, if we had a ledger sheet as to how many hundreds of millions they made; they bought nothing and just forced the company to restructure itself. I am not sure that is real free enterprise and real marketplace.

If it is, it is not necessarily something we should not look at it to see wherein the regulatory scheme did not work.

Secretary BAKER. We should look at it, Senator, and we are looking at it. As the chairman indicated, we have to be careful that we do not go too far, and some of the people that you refer to are—I will not say in a public hearing what might happen to them, but they are obviously, a lot of them, in deep trouble. The system with respect to those, at least, is working and they have been apprehended and many of them are pleading guilty to criminal offenses.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Mr. Secretary, very much.

Secretary BAKER. Thank you.

Senator DOMENICI. Mr. Secretary, I wanted to give you the Gibbs letter that was a response, and we already have it in the record.

Secretary BAKER. Are you talking about the strippers?

Senator DOMENICI. Yes; the response he already gave.

Secretary BAKER. Yes; we have one.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. The rest of the questions which we referred to earlier will be submitted for your response.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Additional Committee Questions

INSTALLMENT SALES

Senator DeConcini: As I noted, I do not believe that the problems with the installment sales provisions of the tax bill can be remedied effectively with regulations; however, I would like to know the timetable of the Department for any attempt at some general guidelines for the new installment sales rules. Can you give us any indication as to when guidelines will be issued that will at least allow builders to make some rough estimates of their tax liability?

One of the particular areas that has proven to be difficult in working with the new rules is determining just what debt should be included in the calculation of gain that is to be recognized. Has the Department made a determination regarding the definition of "indebtedness" under the new rules?

A second area of particular concern relates to borrowings between partners and partnerships and between a corporation and individual partnerships that own it, and to intercorporate borrowings. Has the Department clarified how such borrowings are to be treated?

Secretary Baker: The Treasury Department regards the installment sales regulations as a top priority and is seeking to develop these regulations as expeditiously as possible. We intend to release the regulations in stages, in order to offer guidance on key issues as soon as they are resolved. In particular, we expect that a regulation explaining the transition rules allowing dealers in real property to spread out income, and dealers in personal property to spread out tax, over a three year period will be issued within the next several months. A second group of regulations dealing with certain key issues, including aggregation rules, the treatment of pass-through entities and the computation of indebtedness, is moving ahead and will be issued sometime thereafter.

The Treasury Department has not yet resolved all questions as to the definition of "indebtedness" for purposes of the installment sales rules. The statute itself creates an exception for indebtedness with respect to which substantially all of the property securing such indebtedness is personal use property. We intend to address this issue in the second group for regulations described above.

Treasury also has not yet resolved certain issues as to the treatment of pass-through entities, borrowings between related taxpayers, or the aggregation of related taxpayers. Again, however, these issues are part of the second group of regulations described above.

Treasury welcomes suggestions regarding the issues you have raised. As you know, we are in the process of evaluating the legislative suggestions that you have brought to our attention.

Use of Mint Profits to Finance Operations

Senator DeCONCINI. Mr. Secretary, as we all struggle to live within the Gramm-Rudman-Hollings budget ceilings and targets, we need to be more creative about the way we finance Federal programs.

I note that the United States Mint makes rather substantial profits from the sale of coins for domestic circulation; the sale of commemorative coins, such as the Statue of Liberty coins; and other specialty coin sets and catalogs. It appears that the Mint realizes well over $466 million in profits annually. It's budget is about $47 million.

Have you, as Secretary, considered putting the Mint on a similar footing as the Bureau of Engraving and Printing, where the costs of its operations are funded out of the revenues it generates each year?

Secretary BAKER. The United States Mint's operations, are presently financed through an annual appropriation received from the Congress. This is mandated by Chapter 51, Title 31 U.S.C.

In the late 1960's and early 1970's, the Mint on several occasions attempted to obtain Congressional approval to permit the operations of the Mint to be financed from an operating fund into which revenues of the Mint from coinage and other sources would be paid and from which, in general, all expenditures of the Mint would be paid. The excess income of the fund would be transferred to the General Fund of the Treasury.

The General Accounting Office made a proposal for the establishment of an operating fund in their audit report for fiscal years 1956-58. They felt it would provide greater flexibility in planning coin production, simplifying financing procedures and improving financial reporting. They repeated their recommendation again in 1967.

Senator DeCONCINI. A fund could be set up which holds coin profits and the annual operating budget of the Mint could be paid for out of that fund, subject to annual appropriations actions -- not unlike we do with Customs User Fees.

Why wouldn't this make some sense in these tough budget times?

Secretary BAKER. It does make sense. If this change were made, the Mint would continue to make full disclosure of its income and operating costs on a businesslike basis to the Congress as is presently done by the Bureau of Engraving and Printing.

COORDINATION OF TREASURY ADP MODERNIZATION EFFORTS

Senator DeConcini: Mr. Secretary, it seems as though every Treasury bureau is in the middle of a major ADP modernization initiative. Customs is bringing their Automated Commercial System on-line. IRS is requesting $847.2 million next year for ADP and information technology -- an increase of about $212 million or 15 percent over 1987. FMS is continuing its Systems 90 financial operations system integrity computer program next year. The Mint just completed a modernization of its data processing systems. A redesign of the Treasury Enforcement Communications System (TECS II) is ongoing at Customs, and BATF is going to spend $3.5 million to begin the process of converting over to this new TECS II system.

It would seem to me that with all of these different computer systems modernization programs going on at Treasury, coordination and control must be a nightmare.

How do you, as Secretary, make sure that there is not duplication of effort among these various systems or that certain centralized consolidation of Treasury computers cannot be achieved? In short, are you really sure that all of these different computer systems are needed and how do you know?

Secretary Baker: Senator, you are entirely correct in drawing attention to the major commitment Treasury is making in information systems technology. Given our increasing workload in tax administration, increasing law enforcement responsibilities and need to monitor and timely act on monetary, budgetary and related financial issues, Treasury feels it has no logical alternative to making these systems investments.

To ensure that we are making the right investments, the Department has established a top executive position, the Deputy Assistant Secretary (Management) for Information Systems, to oversee the implementation of systems technology in Treasury. This Office ensures that duplication of effort is minimized and fosters Department-wide solutions to systems problems through four primary avenues -- review and approval of Treasury bureau long-range (5 year) systems plans, review of information system spending plans contained in bureau Fiscal Year budgets, review and approval of each major information systems acquisition, and by conducting an aggressive Information Resources Management (IRM) program in conformance with GSA guidelines. These management tools allow the Office of the Deputy Assistant Secretary (Management) for Information Systems to provide technical, programmatic and financial control to properly guide the expenditure of funds for information systems in Treasury.

While there is always room for improvement, the Department can point to some significant achievements -- we are developing a Department-wide personnel and payroll system which consolidates all Treasury employees, plus many independent Federal agencies, onto one system. We are nearing completion of the initial buildout stage of the Treasury Consolidated Data Network, which will provide a common data communications facility for all Treasury bureaus at considerable savings. Treasury has in place a Department-wide contract for the purchase of up to $57.5 million in microcomputers that, through the power of consolidated purchasing, is expected to result in savings of up to $8 million from market prices. We are also pursuing a similar consolidated purchase, at deep discount, of larger minicomputers, with IRS serving as executive agent for the entire Department. This coordinated procurement will support key functional initiatives at IRS -- including the Integrated Collection System, the Appeals Tracking System, and Automation of Criminal Investigation Project -- while also supporting the necessary replacement of aged minicomputer systems throughout the Department.

Our TECS-II enforcement system, which you mentioned, will provide systems support for the entire Treasury law enforcement community, including BATF, as well as other Federal agencies with acknowledged roles in border enforcement issues, such as narcotics trafficking. In addition, mission-critical systems, such as Customs' Automated Commercial System and FMS' Systems 90, are given special emphasis by the Department as part of our ongoing information system oversight program.

In summary, the Department acknowledges its major push in information systems and realizes the need for a strong oversight function. We feel that the programs managed by the Office of the Deputy Assistant Secretary (Management) for Information Systems provide the desired level of technical, programmatic and financial control to pursue the valid goals of eliminating duplication of effort and ensuring consolidation wherever possible.

OPERATION ALLIANCE: A STATUS REPORT

Senator Deconcini: Although the start-up of Operation Alliance was hampered by the Coast Guard effort to steal the E2C aircraft away from the border and the proposed rescission of $39 million in the Customs budget, it now appears that Customs and the other agencies involved in the Southwest border drug initiative are moving ahead to put resources on the border.

I intend to hold a hearing on the border in August --

either in Arizona or in my Ranking Member's state of New Mexico -- to assess the progress of Operation Alliance and its track record in stopping drugs coming across the border. I will be particularly interested in the role that State and local law enforcement agencies have played in the program.

What can you tell me about the progress of Operation Alliance and what your assessment is of the administration's overall commitment to this southwest border drug interdiction effort over the long haul?

Secretary Baker: Operation Alliance is the Administration's initiative designed to choke off the rapidly increasing flow of drugs across the U.S. Mexican border. This is an unprecedented interagency effort along the southwest border involving thousands of Federal, state and local law enforcement officials and sophisticated new equipment to fight drug trafficking along the entire 2,000 mile border and adjacent waters.

Alliance will be at full strength in 18 to 24 months and includes both immediate actions and resources as well as longer term phased responses which shows the Administration's commitment to this effort over the long term. During the first six months of Alliance, the various agencies combined activities accounted for 700 seizures including over 72,000 pounds of marijuana and 8,335 pounds of cocaine.

USE OF SOCIAL SECURITY TRUST FUNDS TO REIMBURSE THE FINANCIAL MANAGEMENT SERVICE

Senator DeConcini: Mr. Secretary, on March 6th I asked FMS about an amendment that was offered last year to the Debt Ceiling Act which would have enabled the Social Security Trust Funds to directly reimburse the Financial Management Service for the cost of processing their benefit payments. This amendment was approved by the Senate last year, but dropped in conference in the House.

If this legislation were approved, I understand that it would save FMS as mush as $90 million in direct appropriations.

Would you, as Secretary of the Treasury, support such an amendment, either free-standing; as part of Reconciliation legislation; as part of a Debt Ceiling bill; or as an amendment to your regular appropriation bill?

Secretary Baker: I am aware of the amendment offered last year by Senator Wilson and supported in colloquy on the floor by, among others, Senators Domenici,

Gramm, and Rudman. Were such an amendment to become part of this year's Appropriations Act it would, based upon our most current calculations, allow a reduction of $90 million in direct appropriations to the Financial Management Service while preserving oversight to the Congress of our billings against the Trust Funds. I would have no problem with any vehicle you decide is appropriate for this amendment, for, as you well know, successful pursuit of legislation frequently turns on timing and opportunity which are factors that I am not in a position to forecast.

DEPARTMENTAL OFFICES: Administrative, Clerical, and Other Non-professional Staff; Departmental Offices.

Senator Deconcini: Mr. Secretary, the Departmental Offices budget at Treasury -- which includes your own office budget -- includes approximately 1,181 average positions. I notice that 741 of these positions, or 63% of these positions are administrative, clerical, secretarial, or other non-professional slots. In other words, about one-third of your positions are professional/policy type positions. Aren't you top-heavy in non-professional administrative staff and shortchanged on professional/policy staff in the Departmental Offices? I would think that the Secretary of the Treasury would want 63% of his staff to be policy types, rather than the other way around.

Secretary Baker: Departmental Offices is not, in my opinion, top heavy in the area of administration/-management. The Bureau's management/administration function is charged with a diverse set of responsibilities for both the Departmental Offices and the Department of the Treasury. Budget, EEO, procurement, personnel, printing, telecommunications, financial management, security, building maintenance, and ADP development/support are but a few of these responsibilities. Essentially, these are "service" offices which provide support to the rest of the Department. Obviously, without the proper level of support, the policy offices cannot function. I am extremely careful in the allocation of resources and make every effort to make certain that the proper ratios are maintained among the various offices.

Of the 1,210 total Departmental Offices average positions (1,181 permanent/full-time + 29 temporary/-part-time), 741 are identified as administrative, clerical, secretarial, or other non-professional staff in the Summary of Employment table of the bureau's Congressional Budget submission. However, this information does not provide as complete a picture of the administrative and clerical staff as that provided by the Activity Summaries in the same document.

These summaries reveal that the 1,210 total staff is divided between the bureau's executive and policy functions (766) and its management and administration functions (444, including 77 in building maintenance and operations). Included in the 766 average positions are administrative and clerical staff, who are in direct support of the professional/policy staff.

It is also important to note that 153 of the 444 average positions in the management/administration function (that is, more than one-third) are devoted exclusively to Department-wide oversight in such areas as budget, accounting, information systems, personnel, procurement, security, EEO and planning.

Consistent with our goal of maximizing resources allocated to policy offices, our FY 1988 Budget Request reflects a reduction of nine staff-years and $349,000 in the management and administration area.

EXPIRATION OF RESCISSIONS: HOW WILL TREASURY USE THE MONEY?

Senator DeConcini: Mr. Secretary, on Monday, all of the proposed rescissions for the Treasury agencies expired. This will allow Customs; the Bureau of Alcohol, Tobacco, and Firearms; and the Federal Law Enforcement Training Center to fully obligate its original fiscal 1987 appropriation provided by law.

Obviously, OMB has achieved part of its objective by postponing a quarter of the spending plan of these three agencies. Now it will undoubtedly be difficult for all three to effectively commit all of their funds for the current year.

What are the specific, revised spending plans for each of these agencies now that they have the full use of their entire FY 1987 budget? What specific guidance have you given to Customs, BATF, and FLETC in spending their appropriated funds for the rest of this year?

Secretary Baker: The rescissions expired on March 15, 1987.

The funds withheld pending rescission have been reapportioned, and are available to the bureaus.

We have asked ATF, FLETC, and Customs for specific spending plans, but have not yet received them.

We have discussed the expired rescissions with the bureaus and expect that they will be able to use the funds.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

DEPARTMENT APPROPRIATION LEVEL FOR FY 1988

Senator Domenici: If Fiscal Year 1988 Appropriations were "frozen" at the Fiscal Year 1987 levels for your department, what impact would that have on your department's activities?

Secretary Baker: The FY 1988 budget request for the Department's operating accounts and contributions to the Multilateral Development Banks (MDBs) represents an increase of $1.7 billion or 23 percent over the FY 1987 Continuing Resolution level. The additional funds requested by the Department are essential for Treasury to maintain current program levels and to carry out new policy initiatives. A freeze would reduce Bureau funding by the following amounts:

Internal Revenue Service	$824M
Departmental Offices	6M
U.S. Customs Service	(127M)
Secret Service	41M
Financial Management Service	30M
Public Debt	41M
Savings Bonds	2M
Alcohol, Tobacco & Firearms	4M
Mint	3M
FLETC	(6M)
Federal Financing Bank	2M
St. Lawrence Swy. Toll Rebate	11M
Revenue Sharing	(6M)
Multilateral Development Banks	869M
Total	$1.7B

The impact of these reductions on each bureau's ability to fund its programs is as follows:

Internal Revenue Service:

- Eliminate 9,230 positions and $457 million in FY 1988 program enhancements to collect additional revenues and to improve tax administration. Without these additional enhancements for tax enforcement (examining tax returns, collecting unpaid taxes, and document matching), the IRS will be unable to collect an additional $2.4 billion in revenue, a return of investment of six to one for program enhancements.

- Absorb 233 positions and $167 million in uncontrollable increases. This will result in the additional revenue loss of $1.5 billion since resources must be redirected from the examination and collection functions to absorb the uncontrollable increases. The return of

investment is nine to one for a reduction in the Internal Revenue program base.

- Eliminate the 1987 supplemental request of $200 million for tax reform and FERS (Federal Employees' Retirement System). This request, however, does not have any direct enforcement revenue associated with it.

Departmental Offices

- Virtually all of the reduction would be made up of the pay and FERS costs.

- Because the FY 1987 authorized amounts were not sufficient to fully finance approved employment levels, and also required significant reductions to basic support areas, absorption of the pay and FERS costs could only come from further FTE reductions and a probable RIF.

U.S. Customs Service

- Provide Customs with an amount far in excess of its FY 1988 requirements. The Anti-Drug Abuse Act of 1986 funded major capital improvements and staff expansion in FY 1987. These funds were used for a one-time program expansion and it is highly unlikely that the same level of funds could be spent efficiently in FY 1988. In addition, the use of approximately $500 million in user fee receipts to fund commercial operations in FY 1988 would double funding for this large program in one year and certainly lead to waste.

Secret Service

- Eliminate $40M in program initiatives, including the following items intended for:

  - Protection of Presidential candidates in the 1988 Campaign;

  - Additional personnel required for increased protective and investigative activities;

  - The installation of a new mainframe computer system necessary for the successful operation of the 1988 Campaign; and

  - Counter-terrorism activities as stipulated by Congress in the Continuing Resolution.

- Eliminate $40M in funding for mandatory costs of inflation, the pay increase and FERS. Because

these expenses must be addressed, the shortfall would result in:

- The imposition of severe restrictions on hiring and permanent change of station moves;

- The inability to replace vehicles, uniforms, and other equipment needed to perform the bureau's protective and investigative missions; and

- Further reduction in the level of protection for candidates in the 1988 Presidential Campaign.

Financial Management Service

o Eliminate $12.6M in program initiatives intended for:

  - Securing 760 million annual payments from criminal acts and processing errors;

  - Improving responsiveness to 1.5 million annual check claims, primarily from Social Security and Veterans beneficiaries; and

  - Improving the management of the Government's cash, loan programs, and tangible resources.

o Eliminate $17.3 in funding for mandatory costs of inflation, the pay increase and FERS. Because these costs must be addressed, the shortfall will result in:

  - Loss of all capacity to provide cash and credit management oversight, and the resulting estimated annual savings of $1.4 billion; and

  - Inability to mail all Social Security, Veterans, and other beneficiary and vendor checks during the last two months of the fiscal year.

Bureau of the Public Debt

o Eliminate $37.3M intended for reimbursing Federal Reserve Banks for the full cost of the fiscal agent services they provide to Treasury;

o Eliminate $1.7M in funding for other program initiatives to modernize public debt information and accounting systems, as intended with the now completed computer installation; and

- o Eliminate $2.2M of the requested funding for mandatory costs of inflation, the pay increase and FERS. Because these costs must be addressed, the shortfall will result in loss of capacity to:
  - Process some of the estimated 175 million savings bonds transactions that will occur in FY 1988;
  - Respond to inquiries from remaining holders of registered securities; and
  - Maintain and update accurate reporting procedures for public debt transactions.

Savings Bonds Division

- o Eliminate $.9M for a management information system to increase the effectiveness of savings bonds sales promotions; and
- o Eliminate $.8M of the requested funding for mandatory costs of inflation, the pay increase and FERS. Because these costs must be addressed, the shortfall will result in loss of capacity to provide effective promotional materials and media advertising.

Alcohol, Tobacco and Firearms

- o Eliminate a $3.5M program initiative to establish within the bureau the Treasury Enforcement Communications System (TECS II); and
- o Eliminate $19.6M in funding for mandatory costs of inflation, the pay raise, and FERS. Because these costs must be addressed, the shortfall would result in:
  - The reduction of staff by approximately 600 FTE positions;
  - A reduction of ATF's basic capability to enforce its basic law enforcement and compliance operations missions; and
  - A withdrawal from active participation in Operation Alliance and from enforcement of the Comprehensive Crime Control Act, both of which were specifically funded by Congress.

Bureau of the Mint

- o Eliminate $1.5M for asbestos removal at the Denver Mint;

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- Eliminate $.8M in additional coin production required to satisfy projected demand. Seigniorage deposited into the General Fund would be reduced by about $23M.

- Eliminate $.3M for the replacement of worn out and obsolete equipment; and

- Absorb $.7M of the uncontrollable increases. This would result in a further decrease in coin production to a level of about 12B coins. Seigniorage deposited in the General Fund would be reduced an estimated $19M, representing a total shortfall of $42M from the FY 1987 level.

Federal Financing Bank

- Prohibit funding of administrative expenses through direct appropriation as proposed by the Administration.

Multilateral Development Banks

- Eliminate $869M in authorized funding and $3B from the program limitation level. A decrease in the U.S. contribution from the negotiated replenishment level would give other member countries the option to reduce their contributions accordingly. Consequently, MDB lending programs could be reduced substantially. The International Development Association (IDA) would experience the largest shortfall ($336M) in U.S. funding.

Senator Domenici: If it were necessary for your department to live with a total appropriations level in Fiscal Year 1988 "frozen" at the Fiscal Year 1987 level, what reallocations of this total level of resources among your agencies different from Fiscal Year 1987 would you propose?

Secretary Baker: Due to the very tight overall fiscal environment, the Administration's FY 1988 budget provides only for maintaining and, in selected cases, expanding high priority programs in key areas of national interest. Without the additional funding requested for FY 1988, pay and FERS costs for the Internal Revenue Service, the Departmental Offices, and the Financial Management Service would have to be partially absorbed by program cuts in other bureaus. Personnel expenses account for a high proportion of total outlays for these bureaus, which are requesting additional funding for mandatory costs in FY 1987.

Senator Domenici: On the other hand, if budget restraint was not necessary, what enhancements would

you recommend above the President's requested levels for your department's agencies for Fiscal Year 1988?

Secretary Baker: The President's FY 1988 budget reflects a phased approach to meeting the Administration's objectives. Requested funding is based on adding resources at a rate that will allow for their most efficient use. In this department, there are several examples of this approach:

- The IRS revenue initiative provides for 2,500 new tax examiners each year between 1987 and 1989. The IRS believes that it would be unable to effectively deploy additional examiners above this level.

- The Mint has multi-year programs for the expansion and improvement of its production facilities, as well as the replacement of worn-out coin presses, to increase productivity. This approach has minimized disruption to production and has allowed the Mint to monitor its need for additional capacity.

- Custom participation in Operation Alliance, a joint federal drug enforcement initiative, involves multi-year implementation. The training of additional personnel for this program is constrained by the rate at which new border stations can be equipped.

BIENNIAL BUDGET CYCLE

Senator Domenici: Calls for budget reform are increasingly heard as budget deadlines are too often missed, important budget decisions are delayed, appropriation bills and other direct spending legislation are held up in committee, and omnibus spending bills take the place of timely and orderly consideration of individual bills. One procedural reform that is being considered is the two-year budget cycle where budget and appropriations matters would be considered in the first year, and authorizations and oversight would be undertaken in the second year.

Background

On January 29, 1987 Senators Roth, Domenici, and others introduced S. 416, the Federal Budget Reform Act of 1987, that would institute a two-year federal budget cycle. The bill has been jointly referred to the Senate Committees on the Budget and on Governmental Affairs.

Senator Domenici: Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

Secretary Baker: The Department would favor exploring a biennial budget process. Two major benefits would result from a longer cycle: better planning, and better use of resources.

As the Committee is aware, Treasury's diverse and substantial responsibilities require major contracting initiatives. Because the procurement process takes months, the ability to depend on contractor support is often in doubt. Development schedules and long-range planning lose credibility as projected resource levels change dramatically from one year to the next. Two-year availability of funding will provide additional time in case of unforeseen delays in the procurement process, such as protest bids which could delay major contract awards. Slippage of funds to the next fiscal year would be averted and appropriated funds for these projects would be used in the most cost-effective manner possible.

With a two-year cycle, planning and actual implementation of projects will better coalesce. The long recruitment, hiring and training process for staffing new projects can be undertaken without fear of disruption by new legislation or the uncertainties inherent in multiple continuing resolutions. The longer planning period will flatten out the impact of long lead times in filling vacancies. Program goals would be more meaningful. Productivity would increase in a more stable, controlled environment. Multi-agency initiatives could also be better planned and coordinated.

Senator Domenici: Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Secretary Baker: Nearly all of our request is repeated each year. Normally, only nonrecurring costs, such as one-time equipment purchases or start-up costs for a new program are unique to an appropriation request.

Senator Domenici: What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

Secretary Baker: While we believe the two-year cycle would be beneficial overall, it is not without certain potential problems. A two-year process can not be as responsive to economic and current events changes as the one-year cycle. The instability of oil prices alone could have a drastic effect on estimates for the funding needs of the air program (i.e. gasoline and other supplies). Changes in anticipated inflation, rapidly changing technology, and unforeseen or changing

needs could create severe funding problems, with only recourse being a supplemental as projected time periods are extended from 12 to 24 months. Somewhat greater flexibility to reprogram funds might alleviate some

Some recourse should be readily available in order for an agency to adjust to fluctuations in compensation due to changes in economic assumptions, pay or other legislation, etc. If supplementals are not approved, real funding problems may force understaffing of an agency over long periods of time. In cases such, where staffing is by far the largest part of appropriation, inadequate funding will preclude fulfillment of the agency's mission.

AD VALOREM TAX

Senator Domenici: What level of receipts do you expect to collect from the .22% ad valorem tax in FY 1987 and FY 1988? What are the assumptions underlying these receipt estimates? Are these receipt estimates consistent with actual receipts collected in the past few months?

Secretary Baker: Current estimates are that the ad valorem fee in FY 1987 will produce approximately $500 million for the 10 months it will be in effect. This assumes that imports will remain fairly flat and that Schedule 8 imports will not increase significantly.

If imports remain stable or increase only moderately the ad valorem rate of 0.17 percent will produce about $387 million in FY 1988.

This also assumes that the Schedule 8 exemption is not removed and the Schedule 8 imports do not increase significantly. If the Schedule 8 exemption is removed, revenues might increase as much as $166 million in FY 1988, making a total of $553 million possible.

Senator Domenici: Would you please give this Subcommittee your review on how the merchandise (ad valorem) user fee collection process is working so far?

Secretary Baker: The collection and processing of the ad valorem merchandise processing fee and the COBRA passenger and conveyance fees is operating without any significant problems. Customs is currently attempting to improve collections from commercial airlines for airline passengers. We believe that the procedures developed for the fee collections and for the processing, handling, and reporting of the receipts greatly facilitated the implementation of the user fee system.

Senator Domenici: If you had a preference, would you choose to collect user fees on a transaction basis or an ad valorem basis, and why?

Secretary Baker: Each basis has different advantages. Because Customs is already collecting the ad valorem fee, there would be no additional cost to keep it. There will be a significant cost if we shift to specific fees. Automated Commercial System changes will be needed, and extensive staff work will be required to create, and publish the new fees.

Moreover, revenues from an ad valorem fee are more dependable. One of the results which could be expected from a transaction-based user fee would be that importers would consolidate shipments which are now entered separately, in order to reduce fee liability. On the other hand, ad valorem fees do not accurately reflect the cost of services performed by Customs, and they discriminate against importers of high-value merchandise.

COBRA

Senator Domenici: What is the amount of receipts expected from the C.O.B.R.A. passenger vehicle processing fee in FY 1987 and FY 1988? What amount of these receipts is being paid to offset the overtime costs previously paid by users in FY 1987 and FY 1988?

Secretary Baker: The current estimated COBRA receipts in FY 1987 are under $100 million. In FY 1988, the estimated receipts are $120 million. The amount of these receipts to be used for Customs primary overtime costs is $71.4 million in FY 1987 and $73.0 million in FY 1988.

LEGISLATIVE CHANGES ON CUSTOMS USER FEES

Senator Domenici: Would you please outline the legislative changes being proposed relative to the Customs User Fees. What is the level of additional receipts expected as the result of such legislative changes?

Secretary Baker: On February 19, 1987, the Administration's "competitiveness" trade bill was introduced. Section 50120(e) of that bill proposes to amend the Customs User Fee statutes by repealing the ad valorem fee and replacing it with a transaction fee to be set by the Secretary of the Treasury on an annual basis. The new section also repeals the Schedule 8 exemption and deletes the exemption for products of Caribbean Basin Initiative countries. The proposal would also eliminate expiration of the user fees.

None of the other trade or authorization bills addresses Customs User Fees, although it is our understanding that Congress is aware of the Schedule 8 loophole and fully intends to address that issue shortly.

DETAILEES

Senator Domenici: How many other Treasury personnel were detailed by the Office of the Secretary in Fiscal Year 1986? What was the average length of the detail? Were these detailees provided on a reimbursable or non-reimbursable basis?

Secretary Baker: During FY 1986, three Treasury Department employees were detailed to other Agencies. One of the details lasted for three months, one was for eight months, and the other detail was for one year. In all three cases, the agency to which the employee was detailed reimbursed Treasury for the cost incurred.

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

Federal Government Debt Collection

Senator D'Amato: What is the Treasury Department doing to coordinate the Federal Government's debt collection activities? What are the results of these efforts?

Commissioner Douglas: In addition to the Department's responsibilities to minimize Federal interest costs by providing leadership in financial asset management in the Executive Branch, the Department of the Treasury is designated by the Office of Management and Budget (OMB) as lead agency for improving credit management and debt collection in the Federal Government. The role of lead agency includes responsibility for operational policy decisions to assure successful program results. This responsibility was delegated within the Department to the Financial Management service (FMS) based on a memorandum of understanding dated October 17, 1986 between the Under Secretary of the Treasury and the Deputy Director of OMB.

A Nine Point Credit Management Program has been established by OMB as part of the effort to achieve an effective program of Federal credit management. The Nine Point Plan, which is discussed in detail in the President's Management Report submitted to the Congress on March 24, 1987, focuses on improving the three key requirements in the credit cycle -- awarding , servicing, and collecting loans and other debts. To achieve sound, business-like credit management, the Administration's policy requires that all Federal agencies with significant credit management and debt collection responsibilities must fully implement all nine points. Treasury's FMS works closely with the Federal agencies and OMB to assure the program is implemented government-wide through a process of establishing priorities, setting quantitative goals and monitoring the progress of Federal agencies. FMS's specific approach to coordinating the Government's debt collection activities include:

- Providing assistance and guidance to agencies in implementing improvements in their credit management systems;

- Developing and issuing operational policies, guidelines, and procedures on the use of the credit management and debt collection tools and techniques;

- Administering the use of existing tools and techniques, such as private collection agencies, IRS tax refund offset, salary offset and administrative offset;

- Developing and implementing new tools and techniques, such as automatic account withdrawal for recurring loan payments, and the use of credit cards for the collection of debts; and

- Providing credit management information to the decision-makers at OMB, the Federal agencies, and the Congress.

The results of this effort are that the Federal agencies now have quantitative goals for improving their credit management and debt collection programs and specific strategies and plans for accomplishing these goals. This process has slowed the growth in the delinquencies on the Government's debts. Through FMS' efforts, this trend is expected to continue and will result in an absolute decrease in the level of delinquencies on Government non-tax addition, FMS involvement has led to the following results:

- $1.9 billion has been referred to private collection agencies under the GSA contract for collection action as of March 1987;

- In CY 1986, $197 million was collected through IRS tax refund offset program;

- During CY 19887, $166 million has been collected between January 1 and April 17 through the IRS tax refund offset program.

Tax Refund Offset Program

Senator D'Amato: How successful has the Internal Revenue Service income tax refund offset program been? How long will this program be continued?

Commissioner Douglas: The Deficit Reduction Act of 1984 allows agencies to submit information about delinquent debtors to the Internal Revenue Service for use in the recovery of debt through the offset of income tax refunds otherwise due the taxpayer during

1986 and 1987. The success of this program is demonstrated by the following:

In 1986, IRS accepted 604,675 accounts having a value of $1.3 billion from five agencies. Collections from offsets and preoffset notices totaled $197 million form 337,357 delinquent debtors. In 1987, IRS accepted 1,101,202 accounts with a value of $2.4 billion form nine agencies. Collections from offset and preoffset notices have totaled over $166 million from approximately 370,000 delinquent debtors during the period January 1 through April 17, 1987. Because of the success of this program, the Administration will propose legislation to amend the Deficit Reduction Act to permit the extension of this authority for two more years. Without this legislation, the program will expire on December 31, 1987.

NONDEPARTMENTAL WITNESS

STATEMENT OF ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

PREPARED STATEMENT

Senator DECONCINI. Mr. Tobias, will you please come forward? Let me say your written testimony is substantial and we are going to put both pieces in the record in full. If you would summarize your statement, we would greatly appreciate it.

[The statement follows:]

STATEMENT OF ROBERT M. TOBIAS

I am Robert M. Tobias, National President of the National Treasury Employees Union. NTEU is the exclusive representative of over 120,000 Federal workers, including virtually all employees of the Internal Revenue Service. I am accompanied today by Patrick Smith, NTEU Director of Legislation, and Paul Suplizio, legislative consultant.

On behalf of the men and women who collect the revenue of the Federal government, I am pleased to appear before you to present our recommendations on the Administration's budget request for FY 1988 and Supplemental Appropriations for FY 1987.

Our nation's tax administration system remains under great strain, with a 20 percent non-compliance level, over $100 billion in uncollected taxes, and inadequate taxpayer services needed to instill public confidence. Nevertheless, under your leadership, Mr. Chairman, and that of the Subcommittee during the past two critical years, IRS has made progress in dealing with its most pressing problems and it is now possible to turn our attention to steps to promote the long-range health of the system.

Establish a Ninety Percent Compliance Objective

Of these measures, none is more important than for Congress to establish a ninety percent compliance level as a national objective. This objective would set the standard against which steps to strengthen the effectiveness of IRS should be measured. The present 80 percent compliance level is by no means foreordained. It is a creature of neglect, of a decade of declining enforcement that allowed nonfilers and underreporters, tax shelter operators and other abusers of the system to flourish. As the Yankelovich public opinion survey confirmed, the principal motivation for tax cheating is that others are getting away with it, and the principal deterrent to evasion is actual detection coupled with the fear of detection. By strengthening enforcement and taxpayer services, we can affect public attitudes and make a ninety percent level of voluntary compliance a reality. NTEU first called for this goal in 1983, and we are pleased to note that last year we were joined by the American Bar Association and American Association of Certified Public Accountants. Both IRS employees and the tax practitioners of this land urge the Subcommittee to explicitly establish the goal of a 90 percent level of voluntary compliance as the standard to guide rebuilding of the nation's tax administration system in the years ahead.

FY 1987 Supplemental Appropriations

IRS faces a dire predicament in its FY 1987 budget. Last year, Congress provided significant additional resources of over $300 million to improve enforcement and collection. These much-needed program increases are going to be wiped out, at a cost to the Treasury of an estimated

$1.35 billion in FY 1987 alone, if IRS' supplemental request for $200 million is not enacted. We urgently need the Subcommittee's assistance in this matter.

The reason why last year's increases are in danger of being wiped out is that Congress passed three bills which added large, uncontrollable costs to the IRS budget subsequent to enactment of last year's Continuing Resolution. These bills are:

- 3 percent Federal pay raise, which will cost $66 million in FY 1987;
- Federal Employee Retirement System, which will cost $120 million;
- Tax Reform Act of 1986, which will cost $80 million and 932 average positions to implement in FY 1987.

Because these requirements are uncontrollable and obviously have to be paid, the effect will be to wipe out $266 million of IRS' FY 1987 program funding. OMB has required IRS to absorb the $66 million full cost of the Federal pay raise. Presumably, such absorptions require the agency to economize in less essential activities, such as travel and administration. But in fact, that is completely unrealistic when it comes to making an absorption of this magnitude. What will happen is that IRS will spread the cost nationwide, and fewer staff positions will be "realized" or filled than are presently planned. Or, as we currently believe, temporary employees in Taxpayer Service and tax processing in Service Centers will be furloughed early. The IRS budget is tightly financed, with over two-thirds of the funds earmarked for personnel costs. An absorption of this magnitude takes the flexibility out of the budget, reducing its ability to put money and people where they will do the most good, and raises questions concerning the effectiveness of IRS this year.

We are glad to see that the Administration has requested a $200 million dollar supplemental for the other two items, implementation of tax reform and FERS. In view of the pay raise absorption, this $200 million is the absolute minimum that IRS requires <u>right</u> <u>now</u> if the nation is to secure the benefits of the programs enacted last year. At NTEU's budget briefing, IRS officials made the following estimates of what would have to be eliminated if the Supplemental is not enacted:

- 2,500 new positions in Examination, with an attendant revenue loss in FY 1987 of $450 million;
- 2,000 new positions in Collection, with an attendant revenue loss of $900 million.

The situation is quite serious. We stand not only to see the promising start made last year aborted, with all

that implies for restoring the health and soundness of the tax system, but the Treasury stands to lose $1.35 billion that it can ill afford to do without. Examination and Collection cannot afford to lose these essential resources, now that audit coverage has plunged to the lowest level in history and we have over $50 billion in accounts receivable going uncollected. A million fewer returns of citizens who refuse to file tax returns will be secured next year if Congress fails to act. We will simply be continuing down the sorry path of declining levels of voluntary compliance.

In view of the urgency of the situation, we ask that the Subcommittee press immediately for passage of the IRS Supplemental.

FY 1988 Appropriation

The Administration has proposed a budget for IRS in FY 1988 that is both realistic and responsive to the need to halt the decline in voluntary compliance and collect the revenue due the Federal government. The budget calls for an increase of $624 million and 9,400 average positions over the FY 1987 level. If this budget is approved, an additional $2.4 billion will be collected in FY 1988 alone.

The budget continues the Examination Initiative launched last year by funding 3,000 positions over and above the 2,500 positions provided last year. The new positions will generate $443 million in FY 1988, and the entire initiative will produce $14 billion during FY 1987-1992.

With these resources, IRS expects to increase the number of examinations by 259,000 in FY 1988. All told 1,948,000 exams will be conducted that year compared to 1,310,000 in FY 1986. This will raise audit coverage from 1.12 percent in FY 1986 to 1.61 percent in FY 1988.

A Tax Shelter Initiative consisting of $22.9 million and 487 average positions will assist in clearing up the backlog in Appeals and Tax Litigation, thereby accelerating collections in FY 1988 by $519 million.

A document matching initiative costing $35.3 million and 1,362 average positions will permit the issuance of 1.5 million additional notices to taxpayers who apparently under-report their income. This initiative will generate $224 million in FY 1988.

A Service Center revenue initiative costing $5.3 million and 172 average positions will expand examination contacts, through correspondence with taxpayers, and collect $70 million in FY 1988.

A Collection initiative will provide an additional 3,000 positions at a cost of $122 million and return $1.1 billion in FY 1988. IRS expects to settle an additional half million taxpayer delinquent accounts with these resources, reducing the overall TDA inventory from 1.9 to 1.4 million. IRS also expects to secure an additional 300,000 delinquent returns, and complete 1.8 million delinquent returns investigations in FY 1988 compared to 1.7 million the year before.

IRS will process an additional 5.1 million returns and supplemental documents in FY 1988, as well as 900 million information returns. Expedited returns processing is expected to result in a saving of $47 million by reducing interest paid on refunds. In Taxpayer Service, 42.6 million taxpayers will be directly assisted through toll-free telephone, walk-in, and correspondence assistance.

NTEU can support this budget with a single exception. The full cost of the revenue initiatives and other necessary increases in this budget is not the $624 million and 9,463 average positions allowed by OMB. The full cost, as stated in the budget itself, is $783 million and 10,853 positions. In other words, OMB has short-changed IRS by $159 million and 1,390 average positions in order to offset more than half the cost of FERS in FY 1988. This giving with one hand only to take way with the other makes no sense and should be rejected. An absorption of this magnitude is unrealistic in a budget where most resources are applied to staff costs, and will only result in 1,400 positions going unfilled. As this is a 12.8 percent reduction in the new revenue initiatives, approximately $300 million less revenue will be collected. In short, there is no way the program results claimed in this budget can be achieved unless the full cost of the resources is provided. Therefore, Congress should restore the $159 million absorption by providing a total of $5.2 billion and 112,051 average positions in FY 1988.

NTEU's budget recommendations for IRS are summarized in Table 1. Table 2 provides the latest IRS data on the Income Tax Gap and voluntary compliance. Table 3 reports on total IRS and returns processing staff, in relation to returns filed. Table 4 shows the trend in total IRS enforcement revenue. Tables 5 and 6 provide Examination and Collection staff and workload data. Table 7 shows Taxpayer Service staff and the number of taxpayers assisted. Table 8 presents IRS personnel attrition for the latest year available, FY 1989. Table 9 shows the number of additional Revenue Agents, Tax Auditors, and Revenue Officers projected under the proposed budget.

We strongly recommend that Congress approve NTEU's recommendation of $5.2 billion and 112,051 average positions for IRS in FY 1988.

Improve Recruitment and Retention of IRS Personnel

IRS employees are a dedicated and competent work force. But far too many talented and experienced workers are leaving the Service due to low pay, stressful working conditions, and the lure of attractive careers in the private sector. This Administration's downgrading the worth of Federal service has made matters worse.

Today, IRS is experiencing a brain drain of some of its most talented people. The turnover Service-wide is 11.3 percent each year. As a result, IRS is forced to spend millions to recruit and train new people -- millions that could be better utilized to pay its experienced workers well and provide them attractive careers. A revenue agent, revenue officer, taxpayer service or computer specialist requires years of professional development. If IRS is unable to produce these professionals in large enough numbers, and if they are being siphoned off to better-paying jobs in the country's accounting firms and corporate tax departments, technical competence in the Service will suffer. The most advanced computer systems will be operated inadequately. Taxpayers will not be able to get the quality of service they deserve, and the long-run health of the tax administration system will be undermined.

A few examples will serve to illustrate this point.

- Adjustment/Correspondence employees who handle taxpayer inquiries in IRS Service Centers are among the most technically proficient tax specialists in IRS. When correspondence inventories grew to abnormally high levels in 1985, IRS found itself short of competent personnel to process these inventories and had to scour its district offices to locate experienced people who could be brought into the Service Centers to handle this function. We learned that reducing correspondence and adjustment inventories to manageable levels was not simply a function of hiring more people. It takes years to generate the tax expertise needed to process taxpayers inquiries and make account adjustments fairly and accurately. When IRS needed such professionals, they were in far too short supply.

- Computer programmers in IRS Service Centers needed to program the new Sperry computers in 1985 were insufficiently trained and inexperienced in the new COBOL language, resulting in poorly written programs that took inordinately long times to run. Because of their inexperience, programmers failed to use sufficient benchmarks separating one part of the program from another. When trouble was experienced with a program, it had to be run from the beginning rather than from a benchmark, consuming excessive amounts of time and preventing other Service Center components from having access to the computers.

- Since October, 1985 Computer Branches in Service Centers have been organized for 24-hour, 7-day week operations to forestall further breakdowns. Although management allocated sufficient staff-years for such operations, Service Centers discovered that finding qualified personnel was easier said than done. At the Philadelphia Service Center, 21 additional computer operators were to be hired for 1986. Well into the filing season, 19 of the operator positions remained unfilled despite continuing efforts to locate competent new hires. According to research by Eugene Steurele of the American Enterprise Institute, "IRS has almost no chance of hiring computer science majors out of college." IRS' Recruitment and Turnover Study (1984), found that the entry-level salary in the private sector for computer science majors with no job experience was $23,500, while government entry-level salaries were between $13,903 and $17,221. One IRS computer division had 213 employees, of whom only 4 held advanced degrees in information systems and only one held a bachelor's degree in computer science. Despite IRS' efforts to modernize, its current computer system was obsolete the moment it was installed. Antiquated technology is given by computer specialists as one of the three most important reasons for choosing to leave the Service. IRS needs more computer specialists of all types, for example, computer audit specialists are needed to audit more complex returns of large corporations in compliance programs. If IRS is unable to recruit and retain a solid cadre of professionals in this occupation, the millions being spent on computer hardware will not yield an adequate return.

- Service Centers are having difficulty attracting and retaining experienced employees. To assist with the 1986 filing season, the Philadelphia Service Center hired 957 new people in January and February, almost none of whom had prior IRS experience. Whereas 55 percent of seasonal employees at all Service Centers were experienced in 1984, this number had dropped to 39 percent in 1986 and 35 percent in 1987. Only about 45 percent of Service Center workers are permanent employees, even though 58 percent of the jobs are supposed to be permanent positions. IRS recently agreed, at NTEU's prodding, to raise the ratio of permanent employees to 52 percent, but more needs to be done. In 1984, Service Centers at Atlanta, Philadelphia, Ogden, Austin, and Andover all had separation rates for their permanent workforce (excluding temporary and seasonal employees) of 9 percent and above. Austin had a 13.3 percent rate, and Andover 17 percent. All Service Centers together had a 9.5 percent separation rate for permanent employees. According to GAO, Service Center officials attribute high turnover to "lack of part-time work and flexible work hours at the centers, job stress due to performance standards, and entry level salaries that were often lower than those offered by local fast food restaurants."

- Turnover among permanent employees in the rest of IRS is equally high. Regions collectively had an 11.4 percent separation rate in 1984, led by Southeast (12.5 percent), Southwest (14 percent) and Mid-Atlantic (14.6 percent). The average for district offices was 12.3 percent, and in the national office 9.8 percent. The Service-wide average was 11.3 percent.

- For the critical occupations of Revenue Agent, Revenue Officer, and Tax Auditor separation rates are excessive. Average rates Service-wide were 7.4 percent for Revenue Agents, 8.3 percent for Revenue Officers, and 9.3 percent for Tax Auditors in 1984. However, the average rates conceal a much deeper malaise. More experienced employees are leaving the Service than inexperienced employees. An IRS study of Revenue Agent Attrition for FY 1979 showed that voluntary separations in GS-9 through GS-13 were 63 percent of the total number of Revenue Agent quits, while the other 37 percent were in GS-5 through GS-7. The field offices with the highest quit rates of experienced agents were located principally in the Sunbelt states of the Southeast and Southwest. Inadequate salaries and production pressure are important factors in this attrition.

- IRS is increasingly unable to compete with the salary scales of the private sector in attracting quality accounting graduates. An IRS study completed in 1981 found that the average starting salary offer to Bachelor's degree candidates in accounting was $16,728. At the 50th percentile, above which 50 percent of the offers were made, the salary offer for graduates with a Bachelor's degree in accounting was $16,800. The starting salary offer at the 10th percentile, above which 90 percent of the offers were made, was $15,000. These figures compared to IRS starting salaries of $12,266 at GS-5 and $15,193 at GS-7 level. That was in 1981. The situation has worsened since then as Federal pay scales have fallen further behind the private sector.

In an article entitled, "Best Accountants Leaving IRS for Greener Pastures", Richard Whitmore of Gannet News Service writes:

> "In the past decade, as the salary gap has widened between IRS and private accounting firms, the normal trickle of revenue agents and executives out of the IRS had turned into a flow....Many IRS workers have skills that could bring them a lot of money on the outside -- a raise of $10,000-$20,000 for an average revenue agent."

A study being conducted by the American Bar Foundation finds that private practitioners cite high attrition rates

for IRS employees as a major source of problems. Private tax attorneys and accountants complain that IRS employees are not adequately trained in the tax law, and not technically competent in their area of expertise, or are not familiar with changes in the statutes. (Quoted in Steurele, op. cit., p. 49). From their point of view, a poorly conducted audit is worse than no audit at all, because the taxpayer loses respect for the Service and may come away with the impression that he can get away with cheating.

Wiliam Penick, a senior partner in the accounting firm of Arthur Anderson, is quoted by as saying:

> "The average agent has less experience, less maturity, and just doesn't have the self-confidence to deal with the issues themselves and work out solutions. The most complex of the tax areas are not black and white and where there are grey areas, you should compromise. The older agent knows from practical experience what makes sense, but the young guys don't have the self-confidence to settle the issues themselves."

Former IRS Commissioner Jerome Kurtz adds:

> "You hear a lot of complaints from sophisticated taxpayers that the quality of the people they deal with does not seem the same....what happens is that frequently the more complex issues are not raised, or are settled on a less-than-optimum basis. There are still a lot of very good revenue agents out there, but you don't see them coming along at the same rate as you used to."

The mismatch in relative pay and responsibility between IRS Revenue Agents and their corporate counterparts is well-known. As Whitmore summarizes it:

> "The bottom line is this: A relatively inexperienced $25,000-a-year revenue agent sitting across the table from a $60,000-a-year private accountant or comptroller backed up by a $100,000-a-year tax lawyer."

Congressional Leadership Needed to Solve Pay and Production Pressure Problems

IRS can do little about the attractive career opportunities that abound for its skilled people in the private sector. But it does have the means, with Congressional assistance, to tackle the two main sources of high turnover: low pay and production pressure.

Congress and the Administration need to address the problem of IRS salary scales being out of line with the

private sector in terms of both pay and responsibility. For too long, the Federal government has kept the upper grade of an Internal Revenue Agent at the GS-13 level, despite the tremendous growth in complexity of our tax laws and the degree of accounting sophistication with which returns are prepared. A Revenue Agent's responsibility in auditing a complex return of a corporation or partnership today, and the commensurate skills required, are much greater than a decade ago. In order to overcome the starting salary problem, IRS has already begun to hire Revenue Agents at higher entry grade levels. If experienced agents are to be retained, it is essential that the senior grade level for a Revenue Agent be raised to GS-14.

Much more can be done. Provisions exist under current law whereby the Federal government can pay higher salaries for skilled technicians who are in short supply. This Subcommittee should require the use of such provisions to improve recruitment and retention in critical occupations within IRS.

Many of our people with highly developed tax expertise and technical skills would remain in the Service if rewarded with higher pay for their skill level. Practically the only way this can be done today is by advancing the worker into a higher grade, where positions are too few in number to give all qualified employees working at the same skill level additional pay. Advancing to a higher grade frequently means entering managerial ranks, where duties are those of a manager rather than of a skilled technician, resulting in the technical expertise of the individual not being utilized as fully as possible. What is needed is a means of recognizing with additional pay the level of technical expertise attained by IRS workers.

Accordingly, we urge Congress to authorize IRS to spend up to $50 million for a pilot program to pay a skill-level differential to employees in critical occupations with high turnover. Such pay for higher skills would be designed to offset the differential between the private sector and IRS with respect to workers with comparable skills, thereby enhancing retention. This concept has nothing to do with performance pay, which is designed to encourage superior performance but is beset with serious practical difficulties to its implementation. It is, as I say, designed to recognize the higher skill levels attained by experienced workers and required in their jobs, and to reward these skilled employees with a pay differential that would narrow the gap with the private sector and reduce the present drain in critical occupations.

The pathbreaking incentive pay program presently installed in all Service Centers was designed with NTEU's full participation, and we believe the concept of management and labor cooperating in the same manner can be usefully extended to the design of a pay-for-skill system. I would like to briefly describe our incentive pay system, which has

been uniquely successful in raising productivity in the Service Center functions where it is installed, and which rewards workers who attain above-average levels of production. A base level of performance, such as so many key strokes per hour, is established as a standard. Then a target is set above the base so that fifty percent of the workers are able to attain the target. If more than fifty percent attain it, the target is raised; if fewer than fifty percent attain it, the target is lowered. Workers who attain or exceed the target are rewarded with incentive pay based on the amount they exceed the base. This unique system was installed after a significant failure by management to institute a system of its own design. Without employee input, management's system was totally production oriented and failed to take into consideration the needs of the workers. With employee participation, a design which is monitored, and to some extent administered, by a labor-management team was installed at each Service Center, and to date has proven successful. At the Austin Service Center, management is advertising the program in its recruiting campaigns. We feel confident that, were Congress to authorize a skill-level pay program in IRS, NTEU could contribute to its design and administration.

If this program were adopted, it would have a positive and immediate effect on service to taxpayers generally, and on the productivity of IRS employees. Not only would a large number of skilled Taxpayer Service representatives be retained in the Service, but returns and refunds would be processed more expeditiously and with fewer errors. Skilled Adjustments Branch officers who are needed to respond promptly to taxpayer inquiries, and Appeals Officers who settle examination disputes would be retained in the Service, maintaining a high competence level in these important functions. Examination and Collection staff would be more productive and better able to assist taxpayers. Technical personnel, such as computer specialists and computer-assisted auditors, could be motivated to remain with IRS. Large savings in training costs would accrue throughout the Service as a result of not having to train as many replacements. Savings in training costs alone could offset a large part of the $50 million cost of the program.

We urge the Subcommittee to act on this proposal because the need is urgent and government-wide remedies would take too long to enact. Surely the Commissioner can be given discretion over $50 million of the funds Congress has made available and apply it to resolving the personnel crisis in IRS. To wait any longer for OMB and OPM to act would be futile.

In the early 1980's, IRS began a process of revamping the computer hardware and software it used to keep payroll and personnel records. At that time, it relied upon its own automated system for payroll and largely a paper-based system for its personnel records. The goal was to integrate these two data bases so that managers would be able to obtain information faster, engage in planning and reduce the costs of recordkeeping.

Rather than develop its own system, IRS purchased a system that the Department of Defense had used known as PERMITS. Not only did DOD abandon this system shortly after IRS purchased it, but it has been the source of problems ever since.

Overshadowing all other problems is the fact that the system has resulted in an extraordinarily high number of payroll errors. At times, it has had over 15,000 errors awaiting correction. The effect is that IRS personnel do not get overtime pay until months later, savings bond deductions are never made or much more is deducted than authorized, and some people go months without receiving a paycheck. Our Chapter presidents report that PERMITS problems are among the most time-consuming issues they work on for our members.

Even today, there is little hope that we will see the huge error rate drop anytime in the near future. IRS will be a place where roughly 1 in 15 people will be improperly paid at any time. Moreover, the speed of the system is such that it is a burden to management not a help. We cannot even estimate how many staff hours are lost trying to compensate for this system, but the waste is enormous. Congress should provide funds for the replacement of PERMITS, and require IRS to move promptly to resolve all payroll questions within 15 days in order to reduce the significant morale problems being created by the current system.

Production pressure which stems from management's infatuation with statistical measures of performance, continues to be a major obstacle to employee morale and professionalism, and continues to drive good people out of the Service. The fact that production pressure remains a serious problem today, after the debacle of 1985, is proof that old management attitudes die hard and congressional leadership is essential if there is to be a change for the better. In 1985, the Commissioner proclaimed a new policy of emphasizing quality over quantity. His message was simple: it's better to spend resources to do it right the first time than to spend more to fix the mistakes later on. Unfortunately, his message didn't penetrate to the operational levels of management.

IRS has for years been production-oriented, with a top-down system of management. Quantitative plans, such as the Examination plan and Service Center production plans, are generated at the national level and promulgated to the regions. As these plans are based on production standards derived in a simplistic way by dividing workload by available staff-years, they invariably embodied a high degree of unreality. The upshot in the field is pressure to "make plan" by closing the maximum number of cases in the minimum amount of time, quantity to the detriment of quality. One experienced Revenue Officer, who was assigned the most complex collection cases, computed that over the

past five years he has expended less than nine hours per case closed. In the opinion of this officer, and of the overwhelming majority of Revenue Officers, the Collection Division's management philosophy actually undermines compliance when tax-delinquent cases are handled in a slipshod way because of insufficient time to do a quality job.

The impact of production pressure on taxpayers is uniformly negative, and contributes to a poor image of the Service. Pressure on Service Center workers results in taxpayers receiving inaccurate computer notices and erroneous adjustments to their accounts. Pressure on examiners results in hasty disposition of significant issues, while pressure on Collections staff sometimes results in seizures that make no sense because the taxpayer loses his business and the ability to repay.

NTEU has pointed out that production pressure undermines morale and professionalism by preventing employees from doing a capable job; it undermines compliance by producing settlements that frequently are neither fair to the government nor fair to the taxpayer; and it undermines retention through inordinate job stress that drives many workers out of the Service.

NTEU has urged that, were management to adopt a more participatory style, and seek input from employees in formulating each work unit's objectives, both morale and productivity would increase. However, changing IRS' management philosophy will require a concerted effort from the top down. Therefore, we strongly urge this Subcommittee to direct in legislation that IRS first, prepare its work plans after due consultation with employees at all levels; second, provide planning guidance to regions and districts so that work units will be able to base their plans upon realistic forecasts of workload and available resources; and third, to the extent possible derive the national plan by aggregating the plans developed by regions, districts, and work units after input from employees. IRS should be required to evaluate its experience and report annually to Congress its results in building qualitative as well as quantitative goals into its work plans. GAO several years ago advised IRS to set standards for what constitutes a quality audit, and determine the length of time required to perform such audits. IRS has never acted upon GAO's recommendation, nor has it significantly reformed its system of producing Service Center work plans whose unrealistic production standards contributed to the breakdown in 1985. As it is unlikely that IRS will reform itself in these matters, Congress should take the lead in directing that management reforms aimed at enhancing morale, productivity, and retention be undertaken at once.

Service Center Operations

IRS must pay greater heed to quality control in returns processing activity. Last year, error resolution files were

so large that IRS had to change its tolerance levels for clearing up these cases. This didn't reduce the volume of errors, it simply redefined the errors IRS would work to correct. Inadequate quality control and larger error resolution files lead to erroneous notices which cause grief to taxpayers, especially when they continue to receive notices because their reply is tied up in the Correspondence/Adjustment Branch. Last year, an internal IRS memorandum stated that "management review of pipeline correspondence has reflected error rates as high as 40 percent." Such conditions stem from production pressure and failure to take the time to do the job right the first time. Resources are then expended in notice review in an effort to prevent taxpayers from receiving erroneous notices.

In Service Centers, IRS is not performing the quality review required by its own manual. We strongly recommend that IRS apply the needed resources to achieve the quality standards in returns processing activities that are called for by the Internal Revenue Manual.

Key verification is one way IRS can significantly reduce errors at the point where returns information is manually transcribed by key operators into computers. Key verification entails entry of the same data by a second operator to check accuracy. Yet when GAO recommended last year that IRS perform 100 percent key verification of taxpayer entity data (name, address and identification number of the taxpayer) IRS rejected the suggestion for a more limited program tied to original entry operator error rates. Under Service Center working conditions, even the best operator can make mistakes. IRS should accept GAO's suggestion and move to one hundred percent key verification.

During 1985 and 1986, sizeable inventory backlogs were being worked by IRS Service Centers. The most significant backlogs were in adjustments/correspondence and unpostables. Another significant backlog was in Service Center Control Files, which contain block listings of documents scheduled for processing.

The adjustments/correspondence inventory consists of taxpayer correspondence and tax account adjustment requests. IRS considers a correspondence inventory manageable when no more than 20 percent of the controlled cases are 45 days old or older. Throughout 1985 and 1986, unmanageable inventory levels accrued as workers were unable to keep up with the number of new cases being generated. IRS then reduced its correspondence inventories by reducing the number of IRS-initiated tax-account adjustments by raising various tolerances.

All told, raising tolerances cost IRS $200 million in revenue in FY 1986, with most of the loss coming in the area of the Federal Tax Deposit system. We believe that the Subcommittee should require IRS to re-establish these tolerances at realistic levels that do not prejudice the

collection of revenue or undermine taxpayer confidence in the system. IRS cannot solve its problems by waving a magic wand and pretending the workload has been reduced when it isn't.

The unpostables inventory consists of transactions on magnetic tape that will not post to taxpayer accounts at the National Computer Center. IRS considers an unpostable inventory manageable if cases 3 weeks old or older do not exceed 20 percent of the unpostable inventory. At the end of January, 1987 the unpostables inventory stood at 661,000 cases and was not at a manageable level in three Service Centers: Atlanta, Philadelphia, and Brookhaven. The adjustments/correspondence inventory stood at 497,000 cases nationwide. If correspondence and unpostable inventories are not brought down and kept at manageable levels, taxpayers will experience delays in getting their inquiries answered and their transactions posted to the master file. Therefore, we recommend that the Subcommittee continue to closely monitor IRS performance in these two critical area.

In the ADP program, IRS significantly expanded its computer capacity through a multi-million dollar procurement in 1986. Evidence of this new capacity is the fact that returns were processed more speedily, interest payments on refunds were reduced, and IRS is now able to prepare returns on non-filers. Nevertheless, we would like to raise certain cautions. Probably the most important system for answering taxpayer inquiries and processing refunds and adjustments is the Integrated Data Retrieval System (IDRS), which gives on-line access to IRS computers. IDRS inquiries pass through computers known as front-end processors, and IRS is in the process of replacing these. If these computers have insufficient capacity, or should prove unreliable (there is only one per Service Center), we could again experience delays in answering taxpayer inquiries, making account adjustments, and processing refunds. All front-end processors are scheduled for replacement this summer, due to ageing of current equipment. Reliability of the new machines and their impact on real-time availability of mainframe computers will have to be closely monitored.

IRS' ADP plans are in a state of flux. Last year, we were told that IRS intends to replace its present computers (installed in 1984 and 1985 under the Service Center Replacement System) beginning in FY 1988, and would move to a full state-of-the-art system, known as the Tax System Redesign, in the 1990's. IRS has scrapped this plan and now plans to use its current system until TSR comes on line about FY 1993. GAO has pointed out that there will be a gap of approximately two years between the time the capacity of the present system is exceeded and the time TSR becomes available. IRS believes it can extend the life of the current system by making various modifications to bridge this gap, but it is taking a calculated risk. If workload should be larger than forecast, or if TSR should fail the acceptability test (as the front-end proccessors did last year), IRS could run into serious problems beginning around

1990. At that time it will be receiving more than a billion tax returns and supplemental documents each year.

TSR is supposed to provide the modern technology needed to carry IRS into the 21st century. In view of experience with the Service Center Replacement System introduced in 1985, the Subcommittee should closely monitor IRS' ADP program to ensure that further computer acquisitions are properly planned and implemented. It is especially important that training of Service Center personnel be planned for and introduced soon enough to be effective.

Tax reform will entail a host of new forms and procedures that Service Center employees must learn in order to do their jobs properly in the days ahead. We believe that personnel training in Service Centers is inadequate and should be stengthened. Training essential for career ladder advancement is important to rewarding and retaining experienced employees, and should not be delayed.

We have earlier pointed to the use of unrealistic production standards in formulating Service Center production plans. The utterly unrealistic standards of 1985, which contributed to the failures of that year, have now been modified but the system itself remains intact. One of the major breakdowns in 1985 was that senior levels of management were not informed of problems until too late. GAO has qustioned "whether IRS' use of productivity standards fosters the kind of competition between service centers and individual managers that might discourage them from surfacing problems and seeking solutions." In the next crisis, will management be informed soon enough? With participatory management in the workplace, employees and managers could work together to find solutions. But with the current production-driven style, IRS is only setting itself up for another fall.

Examination and Appeals

Examination and Appeals is the backbone of IRS' efforts to achieve a high degree of voluntary compliance with the tax laws. The willingness of taxpayers to file tax returns, correctly assess their liability, and make timely payment is influenced by their perception that these actions will be required if not done voluntarily. Voluntary compliance is dependent to a significant degree on public confidence that IRS is able to identify non-compliance and will take corrective action.

Between 1976 and 1986, non-compliance grew while audit coverage fell from 2.6 to 1.1 percent. There is little doubt that IRS is now conducting far too few face-to-face audits. There are many issues, particularly those associated with underreported income and questionable deductions, that can be resolved only by meeting with the taxpayer. Such audits have a salutary effect upon

compliance. The taxpayer will frequently discuss the audit with his friends and associates, and he may take greater care in his future filings.

Nothing would be more conducive to raising compliance than to increase audit coverage to above two percent. Fortunately, Congress and the Administration have embarked on this course and have shown a willingness to provide the necesary resources. The real problem is whethr IRS will be able to attract and retain the high-calibre people needed in Examination. Being able to compete for the best accounting graduates, and providng incentives to make the Service an attractive career, are fundamental to ensuring that the additional resources will be used effectively. Unless prompt steps are taken to stem the attrition of experienced people, current efforts could result in impressive program statistics but very little impact on voluntary compliance. Senior Revenue Agents and Appeals Officers are among the most technically proficient tax experts in the Service. It takes years of experience to develop such persons, who are models for younger employees. Unless we can retain high-calibre people in senior grades, we cannot expect to encourage the best young people to remain with the Service.

IRS has recently issued personal computers to Revenue Agents under the Automated Examination System, and this is a major step forward. However, training on the new computers is barely adequate and provision for additional instruction needs to be made. IRS projects that $58 million in additional revenue will be collected from AES in FY 1988 due to increased Revenue Agent productivity. This revenue will not accrue, in our judgement, unless training is increased. Similarly, $10 billion in additional revenue is projected over the 10-year lifetime of AES, which will cost $1.3 billion over the same period. The cost of better training to make this sizeable investment pay off would be modest and well worth the funds expended.

IRS management continues to be enamored with statistical production goals, and there are far too many cases where production standards are being used to measure the effectiveness of employees. In a recent Labor-Management conference, NTEU surprised IRS officials by identifying over 25 instances where supervisors used so-called enforcement statistics to rate workers. We have no objection to using statistics to measure the performance of an organizational unit, but we strongly object to applying this system to individuals. The reason is that it is unwise to have employees subject to performance measures that do not reflect differences in locations and circumstances and that can readily translate into quotas and production pressure. Experience shows that this has a negative effect on the morale and retention of employees, on quality of work, and on taxpayers.

The backlog of tax shelter cases in Examination and Appeals has continued to grow, with 413,665 cases on hand as of December 31, 1985. This represents an increase of 35,553

cases, or 9.4 percent, over a year earlier. Moreover, taxpayers have contested over 90 percent of the additional taxes and penalties assessed, leading to mounting caseloads in Appeals and Tax Litigation. The total Appeals backlog was projected to rise to 120,000 cases by the end of FY 1987, of which about a third are tax shelter cases. The average caseload per Appeals Officer has risen sharply, from 63 cases at the end of FY 1983 to 101 cases at the end of FY 1986. By eliminating most tax shelters, Tax Reform will permit eventual reduction of this backlog. Congress and the Administration have also provided additional resources, but here again the expertise required on the part of Appeals Officers is high and such persons can only be found in limited numbers. It will therefore take several years to clear up the present backlog.

Increased emphasis on audits of partnership returns to get at tax shelters has led to a sharp drop in the number of corporate returns audited. However, corporations -- especially the smaller ones -- represent a significant area of non-compliance. When GAO analyzed TCMP data for small corporations, those with assets of up to $1 million, it found that compliance for this group had fallen almost ten percentage points, from 83.1 to 73.3 percent between 1969 and 1978. The corporate tax gap as a whole stood at $6.2 billion in 1981. Audit coverage of corporate returns, which stood at 8 percent in 1978, fell to 2.7 percent in 1984. We believe that the corporate audit level should be raised significantly as additional Examination resources become available.

IRS has been urged by GAO to develop a system for allocating resources among different enforcement programs. As a result, IRS is developing an enforcement resources allocation model that will assist it in determining how additional resources should be allocated for optimum results. The model will take into consideration marginal yield-to-cost ratios for each enforcement program, and the impact of alternative resource allocations on voluntary compliance. Downstream costs and returns, for example, the additional correspondence, appeals, and delinquent account cases that flow from an increased number of audits, would also have to be considered. We believe it is important, in allocating resources within IRS, to maintain enforcement and supporting systems in balance. The enforcement resources allocation model will potentially have a significant impact on staffing in various IRS functions. NTEU intends to monitor its development closely.

Collection

Total accounts receivable grew from $34.4 billion in December 1984 to $45 billion in December, 1985 -- an increase of 31 percent. Several billion dollars of this growth reflected the backlog of unposted payments and account adjustments built up during the 1985 filing season but, according to IRS, economic factors were also at work. The amounts owed on tax returns increased from $40.8 billion

in December, 1984 to $59.6 billion in December, 1985 -- an increase of 46 percent.

Revenue Officer caseloads had already reached unmanageable levels in 1984, and have been a matter of continuing concern on NTEU's part -- a concern expressed to management on numerous occasions. NTEU took action on the budget front when neither the FY 1986 Supplemental nor the FY 1987 budget request contained funds for additional Revenue Officers. Although the additonal resources Congress provided in the FY 1987 Continuing Resolution will help, caseloads can be expected to remain excessive for a considerable period. Therefore, IRS' management of its taxpayer delinquent accounts and taxpayer delinquent returns inventories is important if the Service is to handle the unprecendented situation that now exists.

NTEU remains firmly of the opinion that Revenue Officers should be permitted to exercise sound judgement in entering into settlements that are fair to the taxpayer and fair to the government. We believe that Collection Division's management philosophy is counterproductive because it results in pressure to achieve the maximum number of case closures, leaves Revenue Officers insufficient time to work a case properly, and undermines compliance through unfair settlements with taxpayers. The consequences of this misguided policy are described in the following petition which the Los Angeles Collection Division's workers submitted to management in 1983:

> "The Collection Division in the Los Angeles District of the Internal Revenue Service is unable to treat each taxpayer as an individual with unique problems and individual concerns. This is not because the employees do not want to do so, but because management will not allow it. The taxpayers of this District will feel increased pressure from the IRS in the future due to the fact that increased caseloads and low levels of employee morale and technical ability are forcing enforcement officers to look for the easy way to close a case and not the best way. This will result in the taxpayers in the Los Angeles District having businesses closed and bank accounts attached. The employees in the Los Angeles District want to treat the taxpayers as human beings but management will not allow it."

Frequently, seizures are unwarranted because they put the taxpayer out of business and foreclose the prospect of eventual payment of the amount due. But management's drive for the maximum number of case closures overrides such considerations, and despite our strong objection, the philosophy remains unchanged. In cases recently brought to IRS' attention by NTEU, a memorandum from one manager set a goal of one seizure per week per group. Another supervisor circulated a notice detailing the number of cases closed for the past three weeks and attached a note saying, "Folks!

We're better than this! Get motivated!" Another document praised a worker because her 'rate of closures' exceeded that of her coworkers.

Collection Division's excesses have been the subject of congressional hearings in the past, and we strongly recommend that this Subcommittee take a hand in resolving this issue. The Subcommittee should direct in legislation that IRS Collection plans be developed with input from employees in each work-unit, in accordance with planning guidance issued by the National Office after consultation with NTEU. If IRS paid more attention to employees' views on this issue, we could have a lot more effective Collection program, fairer settlements, and strengthening of voluntary compliance.

Excessive attrition in the Collection Division is seriously eroding the technical proficiency of the staff. The technical skills and knowledge of an experienced Revenue Officer cannot be readily duplicated, and many of the finest officers are leaving the Service due to low pay and job stress. In many offices, the number of well-trained individuals is far less than it should be and the projected infusion of new resources will further dilute the competence base that exists. Drastic steps are called for to put into effect a strong employee retention program, pay competitive salaries, and offer a professionally rewarding career and attractive retirement. The finest young Revenue Officers will not choose to remain with IRS if they do not have role models to follow who know the business, are proud of their achievements, and are adequately rewarded.

The Subcommittee should take steps to increase the protection of IRS employees -- particularly Revenue Officers --from assaults, threats and harassment by taxpayers. It should also recommend legislation providing hazardous duty pay for, and treatment of Revenue Officers on a par with other law enforcement officers for retirement purposes. A Revenue Officer has recently written:

> "One of my fellow Revenue Officers has been pumped full of bullets, and is now physically and emotionally crippled, probably for life. Another was shot down in cold blood...murdered, in the line of duty. Within the last several years, a tax delinquent with a criminal record threatened to kill me, because I did my job. For several months, I have been assigned the responsibility to collect over one-half million dollars from a major drug dealer who has been characterized in federal court as a "contract killer". This particular tax delinquent was considered so dangerous to the community and to specific individuals that he was ordered held in jail, without bond, by a prominent federal judge. Yet I am prohibited from carrying a gun to protect myself, my wife, and my daughter. Equally distressing to me is the fact that I am not permitted to retire from this dangerous and stressful job under the same terms as other federal law enforcment

officials whose jobs are LESS dangerous and stressful that mine. They can retire at age 50, with 20 years service. I cannot retire before age 55, with 30 years service. It now appears that I may have to work for the government until age 62 or 65, if I don't get blown away or die of a heart attack before then. As recently as June 1985, Revenue Officers received copies of a memorandum from high level IRS officials which requred that "an adequate number of bullet-proof vests should be available in each district" for Revenue Officers. So I am authorized to wear a bullet-proof vest on dangerous assignments, but I cannot even carry a pop-gun to protect myself. Can you imagine a U.S. Marine being sent into combat, armed only with a bullet-proof vest? Can you imagine a U.S. Marine being required to do this until reaching age 55, or even older?"

The number of assaults and threats directed against IRS employees rose from 485 in 1982 to 789 in 1984, a 63 percent increase in two years. The vast majority of taxpayers are patient and understanding in their relations with IRS, and the problem of assaults and threats is confined to a relatively small number of individuals. Nevertheless, because enforcement action can be perceived by some persons as unjust or a threat to their well-being or lifestyle, IRS employees must be constantly alert to the risk of possible assault, retaliation, or harassment to themselves and their families. In Washington, D.C. a taxpayer was recently convicted of attempting to murder a Revenue Agent.

The problem is particularly acute in the Collection area where Revenue Officers are involved in direct enforcement action, such as seizure of a business or attachment of assets. It has been standard Collection procedure for many years for Revenue Officers to work in pairs in making seizures and to arrange for Criminal Investigation or local police escorts when necessary. Since 1970, Collection has designated High Assault Risk Areas and allowed Revenue Officers to work in pairs in these areas. Recently, bullet-proof vests have been provided, but Revenue Officers are not authorized to carry firearms.

The recent publication by IRS, at NTEU's urging, of a new manual supplement -- IRM 810 -- will help IRS employees to identify potentially dangerous taxpayers. IRS employees have the right to refuse to work with such taxpayers or to demand armed assistance in dealing with them.

Collection has also established an Assault and Threat Reporting System, which requires employees to report all assaults, threats and harassment incidents for investigation by Inspection Branch and follow-up action to provide necessary protection. Analysis of this data for 1981-1984 has revealed that both the number of total incidents and the number of assaults has increased dramatically in the last three years. Analysis also indicates that there are a

growing number of taxpayers who are openly hostile to Service employees.

These findings document how dangerous and stressful the Revenue Officer occupation has become in recent years. A Revenue Officer in Buffalo was shot and killed while making a field call; another in Cleveland suffered multiple gunshot wounds at the hands of a taxpayer during a meeting at an IRS office. The duties of a Revenue Officer are more dangerous and stressful than many other law enforcement positions. We believe that law enforcement officer retirement for these employees is fully justified.

We strongly urge the Subcommittee to communicate with the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs urging the prompt reporting of legislation authorizing law enforcement retirement for Revenue Officers.

We strongly urge Congress to impress upon the Department of Justice the necessity for vigorous prosecution of individuals involved in assault, threat, or harassment incidents against IRS employees. Prosecution is an important deterrent that is indispensable to the protection of IRS employees, and these workers have the right to expect such support from their government.

Taxpayer Service

The public's perception of IRS and the fairness of the tax system depends importantly on whether taxpayers can obtain assistance with their problems. After the experience of 1985, when only 50 percent of taxpayers who attempted to call IRS were able to get through, Congress and the Administration last year provided many new telephone lines and additional staff, which improved the situation in 1986. IRS made available 3,372 toll-free lines during the peak tax-filing period, an 11 percent increase over 1985. Seven hundred tax assisters were added, raising the total number to 3,400 -- an increase of 26 percent. IRS also established an 80 percent minimum service level for the toll-free telephone system, committing itself to maintain sufficent capacity to handle 80 percent of total demand at any time -- a goal long urged by NTEU. Unfortunately, IRS reduced this service level to 75 percent for FY 1987.

In GAO's 1986 survey of taxpayer service, 68 percent of calls were completed on the first attempt, and 91 percent were completed within five call attempts. The first-attempt completion rate was 31 percent in 1985, 62 percent in 1982, and 78 percent in 1978. In 76 percent of the completed calls last year, GAO was able to reach an assister within one minute. GAO was placed on hold 15 percent of the time, while assisters researched answers to questions. The questions in the sample spanned a wide range of tax law, and 83 percent were correctly answered. This is approximately

the same rate as earlier years, with the exception of 1985 when accuracy declined to 74 percent.

The results of GAO's 1986 survey show that IRS did not achieve the eighty percent minimum service level it established, and needs to raise the level of accuracy of its responses. We recommend that IRS improve the training and professional development of its tax assister staff, and improve access to information that will better enable them to answer tax account questions. IRS should also enhance the attractiveness of the taxpayer service career field, in order to retain experienced people and upgrade the technical proficiency of the work force.

Conclusion

I would like to conclude by noting that the Yankelovich public opion survey I mentioned earlier found that a substantial majority of Americans -- around 60 percent -- believe IRS to be trustworthy, accurate, and staffed by knowledgeable people. IRS employees can take satisfaction in this result, knowing that their job is a difficult one and there is a great deal riding on how they perform it. Our voluntary tax compliance system is a great institution and IRS employees are not unmindful of their responsibility for preserving it.

Mr. Chairman, that concludes my statement. Are there any questions?

72-959 O—87——27

TABLE 1

INTERNAL REVENUE SERVICE FY 88 BUDGET REQUEST AND NTEU RECOMMENDATION

	FY 87 CONTINUING RESOLUTION AND SUPPLEMENTAL[1]		FY 88 BUDGET REQUEST		INCREASE OR DECREASE		NTEU RECOMMENDED ADDITION TO RESTORE ABSORPTION IMPOSED BY OMB FOR FY1988[2]		NTEU RECOMMENDED APPROPRIATION FOR FY 1988	
	($000) Amount	Average Positions	($000) Amount	Average Positions	($000) Amount	Average Positions	($000) Amount	Average Positions	($000) Amount	Average Positions
Salaries and Expenses	91,895	1,895	87,165	1,628	-4,730	-267	+6,949	+73	94,114	1,701
Processing Tax Returns	1,470,248	30,629	1,702,576	33,300	+232,328	+2,671	+20,317	+445	1,722,893	33,745
Examination and Appeals	1,668,104	39,699	1,856,581	43,644	+188,477	+3,945	+106,528	+560	1,963,109	44,204
Investigation Collection & Taxpayer Service	1,217,545	28,975	1,425,528	32,089	+207,983	+3,114	+25,135	+312	1,450,663	32,401
TOTAL	4,447,792	101,198	5,071,850	110,661	+624,058	+9,463	+158,929	+1,390	5,230,779	112,051

[1] Includes Supplemental Appropriation of $200 million and 932 positions.

[2] Absorption is the difference between the full cost of the program requested for FY 1988 and the actual amount provided by OMB.

TABLE 2

INCOME TAX GAP AND VOLUNTARY COMPLIANCE RATE

FY 1974-1987

Fiscal Year	Income Tax Gap ($Billions)[1]	Voluntary Compliance Rate (%)[2]
1974	29	84%
1980	62	82.1%
1981	81.5	80.7%
1986	92	81.6%
1987	100.5	81.85%

1. Taxes legally due but not voluntarily paid.

2. Percentage of taxes legally due that are voluntarily paid.

SOURCE: IRS

TABLE 3

INTERNAL REVENUE SERVICE STAFFING COMPARED TO RETURNS FILED

1978-1988

	Total Staff Positions	Returns Processing Positions	Primary Returns Filed (000)	Information Returns (Millions)
1978	85,329		129,100	
1979	86,168		134,700	
1980	87,464	28,744	137,382	547
1981	86,156	27,481	138,763	645
1982	82,857	23,919	162,814	664
1983	83,605	20,533	171,174	678
1984	87,635	21,743	164,626	692
1985	92,259	26,075	170,021	783
1986	95,880	30,507	178,233	792
1987	101,198	30,629	181,406	872
1988(est.)	110,661	33,300	185,727	907

TABLE 4

REVENUE FROM ENFORCEMENT AND IRS BUDGET

(In Billions)

Fiscal Year	IRS Budget	Enforcement Revenue[1]
1980	2.8	22.4
1982	2.8	25.9
1984	3.3	38.1
1985	3.5	44.1
1986	3.8	49.4
1987 (EST)	4.4	48.4
1988 (EST)	5.1	55.4

[1] Examination, Collection, and Information Returns

TABLE 5

EXAMINATION OF TAX RETURNS

FY 1976-1988

	Examination Staff-Years	Number of Returns Examined (000)	Audit Coverage
1976	28,100	2,285	2.6%
1980	28,412	2,179	2.1%
1981	27,402	1,930	1.84%
1982	28,117	1,731	1.63%
1983	27,638	1,676	1.56%
1984	28,050	1,418	1.31%
1985	29,009	1,380	1.34%
1986	28,656	1,310	1.12%
1987	31,893	1,689	1.44%
1988 (est.)	34,730	1,948	1.61%

TABLE 6

COLLECTION STAFF AND ACCOUNTS RECEIVABLE, FY 1977-1988

Fiscal Year	Collection Staff Years	Accounts Receivable (Billions)	Number of Taxpayer Delinquent Accounts[1] (Millions)	Total Amount Collected (Billions)
1977		8.2	.6	
1978		9.8	.8	
1979		12.8	1.0	
1980	11,705	15.2	1.2	
1981	13,185	19.8	1.4	
1982	15,620	24.0	2.0	
1983	18,149	25.2	2.0	
1984	19,194	30.4	1.9	21.5
1985	16,857	45.0	1.7	24.0
1986	17,147		1.9	19.6
1987	17,710		1.9	21.7
1988 (EST)	20,438		1.4	23.8

1. Includes only accounts being worked by Revenue Officers

TABLE 7

TAXPAYER SERVICE STAFF YEARS, CALLS TO IRS DURING FILING PERIOD AND TAXPAYERS ASSISTED, FY 1981-1988

Fiscal Year	Taxpayer Service Staff Years	Calls During Filing Period (Millions)	Calls Answered (Millions)	Total Number of Taxpayers Assisted[1] (Millions)
1981	5,325	34	18	44.8
1982	4,248	34	18	47.4
1983	4,410	34	17	47.1
1984	4,439	31	18	50.1
1985	4,370	56	19.7	50.2
1986	5,696		18.3	46.4
1987	5,395			41.2
1988 (EST)	5,704			42.6

SOURCE: IRS and GAO

1. Includes toll-free telephone, walk-in, and correspondence assistance during entire fiscal year. Does not include tele-tax or outreach programs.

TABLE 8

Fiscal Year 1984 Separation Rates

Separation rates for the permanent IRS workforce (excluding temporary and seasonal employees), derived from data extracted from the Staffing Analysis Report, 10/1/83 - 9/29/84 (Document 5203, Rev. 2/85).

1. All Regions.....11.4%

   (Includes Regional HQ, Districts and Service Centers)

Central	8.2%
Midwest	10.4%
North Atlantic	10.5%
Western	10.7%
Southeast	12.5%
Southwest	14.0%
Mid-Atlantic	14.6%

2. All Regional HQ Offices.....11.3%

3. All Districts.....12.3%

4. All Service Centers.....9.5%

Covington	5.4%
Fresno	7.1%
Brookhaven	7.9%
Memphis	8.0%
Kansas City	8.4%
Atlanta	9.0%
Philadelphia	9.0%
Ogden	9.5%
Austin	12.2%
Andover	17.0%

5. National Office.....9.8%

6. Total IRS.....11.3%

TABLE 9

INTERNAL REVENUE SERVICE
Employment History
Selected Occupations
(Average Positions)

	Revenue Agents	Tax Auditors	Revenue Officers	Special Agents	Appeals Officers
Fiscal Year					
1981 Actual	13,272	4,079	5,323	2,751	835
1982 Actual	13,554	3,888	6,028	2,685	821
1983 Actual	13,613	3,821	7,301	2,593	891
1984 Actual	13,984	3,608	7,377	2,843	1,127
1985 Actual	13,598	3,536	7,397	2,821	1,050
1986 Actual	13,658	3,317	7,265	2,800	1,052
1987 Authorized	15,922	3,758	7,870	2,854	1,365
1988 Estimated	18,069	3,644	9,308	2,852	1,392
Change					
Number					
88 over 87	2,147	(114)	1,438	(2)	227
88 over 81	4,797	(435)	3,985	101	757
Percent					
88 over 87	13.48%	-3.03%	18.27%	-0.07%	16.63%
88 over 81	36.14%	-10.66%	74.86%	3.67%	90.66%

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Mr. TOBIAS. Thank you very much, Mr. Chairman. We are particularly pleased, and thank you for your work. We think over the last 4, 5, 6 years that there have been some unprecedented attempts to starve the agencies that have produced the revenue for the Federal Government.

Senator DOMENICI [presiding]. Could you just hold your testimony until we get a little order?

[Pause.]

Senator DOMENICI. You may proceed.

Mr. TOBIAS. Thank you, Senator.

We think that all the good work that has been done—and certainly the U.S. Customs Service and the Internal Revenue Service are headed more in the right direction—that we have to ensure that that direction continues and that the problems that have occurred particularly in the IRS never happen again.

We think that one of the ways that would be very helpful would be to provide a specific goal and objective for the Internal Revenue Service, and that that goal and objective should be a 90-percent compliance level. Currently, it is 80 percent, and it creates serious problems both because of the fact that there is $100 that is not collected and, second, it leads to further noncompliance.

I believe that establishing this kind of a goal would really answer one of the questions that you raised earlier, Senator Domenici, with Secretary Baker when you asked how many more people ought to be hired before the marginal increase in revenue would decline, and some 50,000 or 60,000 was the answer, and I am sure that is true.

But it seems to me that by establishing a goal of 90 percent, and once that goal is reached, you would know for sure whether you ought to spend any extra marginal dollars, and it would also give Congress a way by which to measure the taxpayer service program, the revenue agent program, the revenue officer program, and the service center program.

If we established this kind of goal, we would know whether or not the Internal Revenue Service was doing what it should and what it could to reach the 90-percent compliance objective.

With these thoughts in mind, we ask this subcommittee to support a supplemental 1987 appropriation. There has been much discussion this morning about the $80 million and 932 additional positions and the direction of OMB to absorb the $66 million for the pay increase and the $120 million for the FERS. We think that the IRS needs that money. Otherwise, it will not be able to fulfill its objectives in 1987.

If the $200 million is not granted, what is going to happen is that the 2,500 positions that Congress allocated last year will be lost, at a cost of $450 million, and 2,000 positions in collections, with a loss of $900 million.

We also urge support for the administration's 1988 request of an additional $624 million and 9,500 positions. It will yield some $2.4 billion in 1988 alone. I would also like to bring to the Senators' attention two aspects of the internal IRS operation.

In order to be successful, IRS has to be able to attract and retain truly qualified individuals, but our experience is that IRS cannot and has not been able to attract and retain the kind of people it wants.

For example, not so long ago in Manhattan, they hired 150 revenue agents and were touting this as the best class of people that it had ever hired, but only 77 of them showed up on the day that they were supposed to report for work. The IRS did a survey and found out that of those who did not report, 80 percent of them had found other jobs at higher pay.

So we are urging Congress to authorize the Internal Revenue Service to create a pilot program and spend $50 million to pay for a skill level differential in order to attract and retain the kind of people that are necessary to combat the kind of people that the revenue agents particularly see in their workplace.

We also have one other comment that I would like to bring to your attention internally with respect to the IRS, Mr. Chairman, and that has to do with the failure of the Internal Revenue Service to install and maintain a payroll system that pays people and pays them on time.

About 1 in 15 people are not paid properly in the Internal Revenue Service every 2 weeks, and I think that is outrageous. We still have employees with incorrect W–2's that have not been corrected.

Senator DECONCINI. What is IRS' reason for that? Do they have one other than they just cannot do better than 1 in 15?

Mr. TOBIAS. Well, the Internal Revenue Service installed a system that it purchased, I believe, from the Air Force to process its payroll in the Internal Revenue Service and it has proven to be a bust. It cannot work; they cannot seem to make it work.

Instead of problems getting better, they get worse. So we have people with overtime going for months without getting paid. We have people who go on the rolls who go for months without getting paid.

Then what happens is they get part of their pay; we have arranged for them to get part of their pay in cash, 70 percent of their pay. But then for some people, that constitutes an improper amount that should really be—instead of 70 percent, they ought to be getting 60 percent and the rest being withheld in taxes, so they are getting too much money and then you have got to come back and whack them later and adjust that later on.

Senator DECONCINI. Adjust that.

Mr. TOBIAS. So it creates all kinds of——

Senator DECONCINI. Moral problems, I suspect.

Mr. TOBIAS. I mean, it is almost like a pool bet as to whether or not your paycheck is going to be accurate. If you have worked overtime, particularly in these centers and particularly during this period of time, the likelihood is that your paycheck is not going to be accurate and it cannot get corrected.

Senator DECONCINI. Notwithstanding that, Mr. Tobias, you recommend we go ahead and give them another $80 million and let them continue to——

Mr. TOBIAS. I think that in this area what we are recommending is that the IRS be directed to dump this system and get something that works.

Senator DECONCINI. And then they will come back and say we need umpteen million dollars to do it?

Mr. TOBIAS. Well, I hope that they do not. I think that an investigation of this purchase would be very embarrassing to the Internal Revenue Service. I think there was some exercise of bad judgment in the purchase of this system originally.

They purchased this system from the Air Force at a time when the Air Force was junking it as not working.

Senator DECONCINI. Are you satisfied from a technical point of view, to interrupt you for a moment here, that this system cannot work, or is it based on the fact that it has not worked?

Mr. TOBIAS. They tell us it cannot work.

Senator DECONCINI. You mean the IRS tells you that?

Mr. TOBIAS. They have not told us that officially, but they cannot make it work. They cannot hire enough people——

Senator DECONCINI. To make it work?

Mr. TOBIAS. To make it work.

With respect to the Customs Service, as you probably more than any other Senator are aware, it has not fared as well as IRS in that it is still an agency in crisis. At a time when the formal entries increased 3.2 million, or 74 percent, since 1980, and drug importation has increased, the administration is proposing that we rescind $38.9 million from the 1987 budget and force the absorption of $21.5 million more.

Now, I heard Secretary Baker say this morning that with the refusal of the rescission, Customs is going to be able to get to the statutorily mandated level of 14,891. I hope that is true.

I sincerely hope that is true because what the delay has done has set back the entire recruitment, selection and training process, a very unwise decision by OMB.

Senator DECONCINI. Do you have any doubts about the Secretary being able to do that?

Mr. TOBIAS. Yes; I do. I think that it is going to be a very difficult task.

Senator DECONCINI. A difficult task for him to achieve, is that correct?

Mr. TOBIAS. Just to identify, select and get people on the roll between now and the end of the fiscal year.

I think that it is going to be particularly difficult if these people are threatened in the next fiscal year with a reduction in force of some 1,400 positions if the administration's budget is put into effect. That is what the Secretary pointed out, the anomaly of the two positions.

So we urge a couple of things. We urge that, similarly with the IRS, that the U.S. Customs Service be statutorily required to adopt a 5-year plan so that Congress can really evaluate in an oversight way when it is spending money from year to year whether or not the money is being

spent with some overall goal and objective in mind or just a patch. I think that there has been far too much of that.

In 1988, we urge restoration of the proposed cuts by this administration, plus an additional 2,000 positions, to begin a real commercial operations initiative.

I heard the questioning of Secretary Baker this morning and his response that there was a voluntary compliance in the Customs Service of 95 percent. I disagree with that in a couple of ways.

First, as I understand it, the 95-percent figure is based on an examination, a quality assurance examination that the Customs has conducted of only the paperwork that has been processed. But those entries and an examination of those entries do not reveal whether the paper itself is fraudulent.

Senator DECONCINI. It is not really an audit by any means.

Mr. TOBIAS. Not an audit by any means.

Senator DECONCINI. Not a verification.

Mr. TOBIAS. Not at all.

Second, Customs admits, as we show in table 2 of our testimony, that there is some $15 billion of goods that are improperly imported.

Senator DECONCINI. That is annually, right?

Mr. TOBIAS. That is correct.

Internally, we have a document that shows $25 billion more. So under those circumstances, it is very hard to accept the fact that there is a 95-percent compliance.

Senator DECONCINI. Excuse me, Mr. Tobias. Is that how you arrive at your figure of $1.3 billion—by adding roughly 2,000 positions?

Mr. TOBIAS. That is correct, and the way we——

Senator DECONCINI. From this set of circumstances you just laid out?

Mr. TOBIAS. The way we get that, if you look at table 2 of our testimony, is by reducing the number of entries bypassed from 65 to 50 percent, and by assuming that an examination of those entries will yield a marginal dollar amount of $1,200. Normally, they yield about $2,000.

If you multiply the $1,200 times an additional 1.1 million entries to be examined with the additional 2,000 people, that is how we get the $1.3 billion.

Senator DECONCINI. Thank you. That is helpful.

Mr. TOBIAS. So we believe that that estimate is indeed conservative and verifiable; that it is not in any way outrageous.

Senator DECONCINI. Let me interrupt you just to continue a thought here. Do you have any idea why OMB does not look at this model and conclude that at least, if not right on the button, it would be fair to assume that these figures are not off the wall or unreasonable, or have they ever seen these?

Mr. TOBIAS. They have seen these, and I can say, Mr. Chairman, that the numbers that we have produced both in support of revenue from the Internal Revenue Service and U.S. Customs have never been really seriously challenged.

It is merely an attempt by the administration not to allocate more staff and more positions.

Senator DECONCINI. OMB.

Mr. TOBIAS. That is correct. It is very shortsighted.

Senator DECONCINI. The Customs people support you here. I mean, your nonmembers, the administration side of the Customs Service support you, and I just wonder why that cannot be brought through to the attention of somebody.

Mr. TOBIAS. I think it has to do with the failure to look beyond the expense side to the revenue side. If somebody is only responsible for expenses and does not have the concurrent responsibility for revenues, they lose sight of the impact of the decision on revenues.

So that really concludes a summary of the testimony and I would be pleased to answer any questions you might have.

Senator DECONCINI. You touched a little bit on the mistake they made by their rescissions and in your statement, page 12, you recommend that the Budget Act be amended to abolish OMB's power of rescissions, deferrals, absorptions, and apportionment with respect to funds appropriated or made available to functions or agencies of the Treasury Department.

With the possible exception of some elements of OMB's apportionment power to manage, I would agree with you 100 percent. I have given some of my reasons why I agree with you, but why only apply it to the Treasury bureaus and not all across the Government? Is it just because this is what your job is or have you thought about applying it all across the board?

Mr. TOBIAS. The specific reason that we are talking about the Treasury Department, Mr. Chairman, is that there has been a consistent, every-year situation of Congress allocating here and OMB authorizing here. It is a provable pattern of behavior.

Now, that also may be true in other agencies. I am just not aware of it.

Senator DECONCINI. You just focused in on your side?

Mr. TOBIAS. We just focused on the places where we had the evidence.

Senator DECONCINI. Mr. Tobias, Senator Domenici and I have proposed a Customs Service budget to the Finance Committee of $1,267,000. This includes $1.3 billion over the annualized cost of fiscal 1988 commercial operations to cover approximately 2,400 additional positions; $358 million to annualize the cost of the balance of Customs activities, including the drug area; $77.7 million for the start of a major Southwest border facility improvement program; $140 million for a Customs air program; and $10 million for a Customs forfeiture fund.

This budget plan would provide 1,251 additional inspectors for commercial, 523 additional import specialists, 63 additional technical support personnel, 402 additional Customs aides to help with tariff administration enforcement duties, 37 additional automated commercial systems slots, and 145 additional positions for centralized cargo examination and inspection.

How would you feel about this budget package for Customs next year if we can fit it into our allocations? Have you had a chance to look at it?

Mr. TOBIAS. I have not had a chance to study those numbers.

Senator DECONCINI. Would you like to give that to us?

Mr. TOBIAS. I would be very happy to, but I can tell you that hearing those numbers, we would be very pleased with those numbers.

Senator DECONCINI. We would appreciate your analysis of that and any suggestions you have for helping us.

You also recommend that the OMB Office of Associate Director for Treasury and Customs be stripped of all its funding in fiscal year 1988. I share your opinion. Its examiners for Customs have not done a very good job of handling the Customs budget over the years.

What is your basis for your recommendation that no funding be provided to this office? Is there just no hope that they can be responsible?

Mr. TOBIAS. Our experience is that they have been just irresponsible. I mean, this administration, as we were just talking about, has said we should run the Government like a business. Yet, when you show that an expenditure of $1 will yield you $17, and instead of spending an additional $1, you know, they cut $10, that is just an irrational behavior that I cannot explain.

Senator DECONCINI. Business really does not work that way, does it?

Mr. TOBIAS. Not any that wants to stay in business.

Senator DECONCINI. Your testimony, Mr. Tobias, is critical of Customs' efforts to modernize its own automated system, including the commercial systems and others. Yet, you advocate Customs improving its operation through enhancement of ADP technology.

Aside from asking GAO to look at a number of Customs ADP systems, what specific remedies would your organization propose that would make the Customs effort more successful?

Mr. TOBIAS. Well, the basic philosophy of the ADP systems that have been put into place have been not interactive. In other words, they have been more directive, as opposed to a Customs person putting something into the computer, getting some information, and making a decision.

What GAO has found is that the approach that the Customs Service has taken is basically to set some kind of an arbitrary number and provide a somewhat arbitrary analysis of who should be examined and who should be bypassed.

What GAO concludes is that there is absolutely no rational basis for the decisions that the computer is making. So we are saying that the philosophy should be changed in two ways; one, to provide information to the people who are doing the job so that they can make decisions in the workplace.

Senator DECONCINI. And they do not get that now?

Mr. TOBIAS. They do not get that now; they just do not get it. Also, to provide some links between the import specialists and the inspectors

so that they can be working together as a team in this commercial operations area; they do not now.

Senator DECONCINI. You do not object to the approach of having a computer profile——

Mr. TOBIAS. Absolutely not.

Senator DECONCINI [continuing]. Based on good history of an importer, which, of course, you know, affects your membership? It may mean a few less man-hours necessary. That does not trouble you if it is really done so all of the information and the intertwining of these two different departments is available to the inspector?

Mr. TOBIAS. Absolutely. We do not object to automation; we never have.

Senator DECONCINI. Yes.

Mr. TOBIAS. What we have objected to is a system that has been sold as doing more with less and, in reality, has done nothing in the workplace, as GAO——

Senator DECONCINI. Has indicated.

Mr. TOBIAS [continuing]. Has indicated.

Senator DECONCINI. And is it your judgment that the system could be intermeshed to provide the inspector with that information?

Mr. TOBIAS. Particularly between the import specialist and the inspector; that is a critical link that does not even exist today.

Senator DECONCINI. Good point.

I will have some questions to submit to you, Mr. Tobias, but let me just ask you this. With Senator Domenici's comments on the so-called diminishing returns on Internal Revenue, and the Secretary's estimate of upward of 50 percent before you have a leveling off, what is your assessment regarding at what point will pumping more money into IRS enforcement staff stop producing the large revenue benefits that we are currently led to believe are accruing under the President's revenue initiatives?

Mr. TOBIAS. Well, I think that rather than measuring the marginal cost, which is the focus of the question and the focus of the Senator's response, that Congress should set a goal of 90-percent compliance.

Set the goal of compliance, and when we reach that goal then we have solved the problem. It would provide Congress with another managerial tool of analyzing. Do we need more taxpayer service people? Do we need more revenue agents? Do we need more revenue officers to put this mix together to get a 90-percent compliance rate?

If the goal of the Internal Revenue Service is to ensure voluntary compliance, that is the big objective, and it is increasing that rate from its 80-percent level to the 90-percent level which will really get the job done, because if we continue to fall down, there will be a geometric progression below that 80-percent level as more and more people feel they can get away with filing improper taxes.

Senator DECONCINI. So you concur that you must add more to enforcement? You do not know where the cutoff is. Your approach is to just set a goal and do whatever you have to do to get there and then

kind of reassess yourself or satisfy yourself, if you can actually get there.

Mr. TOBIAS. You know, you are not going to get to 90 percent tomorrow because you did not get to 80 percent today, but Congress would then have a measure by which to judge the requests and a measure by which to evaluate the specific requests.

I mean, would, for example, answering more telephone calls by taxpayer service reduce the number of errors and increase the voluntary compliance?

Senator DECONCINI. We just do not know the answer to that question.

Mr. TOBIAS. That is correct, and it is not phrased in that way.

Senator DECONCINI. Good answer.

Thank you, Mr. Tobias. We appreciate your testimony, and I know your staff—Mr. Smith and others—are very helpful in answering some of our questions and offering constructive solutions instead of just being against something, and I know this Senator appreciates that very much.

Mr. TOBIAS. Thank you.

Senator DECONCINI. Thank you.

SUBCOMMITTEE RECESS

The subcommittee will stand in recess until April 1, April Fool's Day, at 1:30 when we will hear from the Federal Election Commission, Office of Personnel Management, and the Advisory Commission of Intergovernmental Relations. That will be in SD–124.

[Whereupon, at 11:16 a.m., Friday, March 20, the subcommittee was recessed, to reconvene at 1:30 p.m., Wednesday, April 1.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

WEDNESDAY, APRIL 1, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

OFFICE OF PERSONNEL MANAGEMENT

STATEMENT OF CONSTANCE J. HORNER, DIRECTOR

ACCOMPANIED BY:
JEAN BARBER, ASSOCIATE DIRECTOR FOR RETIREMENT AND INSURANCE
THOMAS J. SIMON, ASSOCIATE DIRECTOR FOR ADMINISTRATION
SIDNEY M. CONLEY, CHIEF, BUDGET DIVISION
HUGH HEWITT, GENERAL COUNSEL

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order.

This afternoon the Subcommittee on Treasury, Postal Service, and General Government is meeting to receive testimony from three important agencies: the Federal Election Commission; the Office of Personnel Management; and the Advisory Commission on Intergovernmental Relations.

Ladies and gentlemen, we have a very full afternoon before us, so we are going to ask you to summarize your prepared statements. We will see that they are printed in the record in full. We are delighted to have so many people here today to testify. The interest is important to us, as I know it is to you.

Our first witness this afternoon is the distinguished Director of the Office of Personnel Management, Ms. Constance Horner. Let me say at the outset, Director, that you and I have had some problems now and then, but I want to thank you for always having an open telephone line and willing to discuss them.

I think the effort that you have put forward demonstrates what at least I perceive to be the give and take of the executive and legislative branch of Government. I appreciate that, and even though we have had some confrontations, we have had a chance to work on them, and when we can't work them out, we can't. But we have resolved some of them

and I am grateful for your staff interest in the questions that we have asked, not only at the hearings, but at other times.

At the same time, we still have some controversies that are going to be before us between your agency and the Congress. Drug testing will be a major focus of this particular hearing today. I remain skeptical about the fate of the Combined Federal Campaign and who is included in this very important campaign to solicit moneys for charitable use. And there are other matters, for better or for worse, that come to rest at our doorstep here and at yours.

So we hope that we can continue to work on them. We welcome you to the committee and you can proceed with your summary.

INTRODUCTION OF ASSOCIATES

Ms. HORNER. Thank you very much, Mr. Chairman. May I say it has been a pleasure and an honor to work with you and for my staff to be working with your staff on these issues.

First of all, I have with me today Jean Barber, our Associate Director for Retirement and Insurance, Tom Simon, Associate Director for Administration, and Sid Conley, Chief of our Budget Division.

BUDGET REQUEST

I will briefly summarize our 1988 request. Our operating budget request for our "Salaries and expenses" account is for $102.36 million. That is $3.36 million over our fiscal year 1987 level. This increase is primarily attributable to the cost of the new Federal Employees' Retirement System [FERS], space rental, and additional staff for the Office of Government Ethics.

Our operating budget request for transfers from the trust funds to administer the retirement and insurance programs is $65.7 million, which is an increase of $4.8 million over last year. This increase, again, is primarily attributable to FERS and to space rental.

We are also proposing a number of legislative changes for the Federal personnel system and for Federal employee pay and benefits. Some of these proposals save money, while some are cost neutral but represent good policy.

Among the cost neutral proposals is our Civil Service Simplification Act, which we have resubmitted to the Congress, and which is designed to strengthen Federal management and simplify our 60-year-old classification system and to make Federal employee pay more market sensitive and performance oriented.

We are also proposing separately to replace the current within-grade system with a performance-based system.

We will also submit a proposal to provide the option of insurance for long-term care of Federal employees at no additional cost to the taxpayer. The cost of long-term care is something on a lot of people's minds, including Federal employees, and we want to do something about it.

Among the proposals designed to produce savings is a change in the FEHB formula for determining the Government contribution. This will save $79 million in fiscal year 1988 and cost employees an average additional $6 a month premium.

We are also proposing a change in the COLA for CSRS to CPI-Minus-One and elimination of the lump sum payment. Both of those together will save $1.5 billion in fiscal year 1988.

We also propose to require the Postal Service and the D.C. government to pay the full cost of annuitants' retirement and health benefits and these two proposals together will save $433 million in fiscal year 1988.

PREPARED STATEMENT

We look forward to working with the committee over the next fiscal year and now I will be happy to answer any questions you may have.

[The statement follows:]

STATEMENT OF CONSTANCE HORNER

THANK YOU FOR INVITING ME TO APPEAR TODAY TO DISCUSS THE PRESIDENT'S REQUEST FOR APPROPRIATIONS FOR THE OFFICE OF PERSONNEL MANAGEMENT FOR FISCAL YEAR 1988.

I AM ACCOMPANIED THIS MORNING BY THOMAS J. SIMON, ASSOCIATE DIRECTOR FOR ADMINISTRATION, JEAN M. BARBER, ASSOCIATE DIRECTOR FOR RETIREMENT AND INSURANCE, AND SIDNEY M. CONLEY, CHIEF OF OUR BUDGET DIVISION.

AS I'M SURE YOU ARE AWARE, OPM IS PROPOSING A NUMBER OF MAJOR LEGISLATIVE CHANGES FOR THE FEDERAL PERSONNEL SYSTEM AND FEDERAL EMPLOYEE PAY AND BENEFITS PROGRAMS THIS YEAR. IF I MAY, I WOULD LIKE TO BEGIN BY BRIEFLY HIGHLIGHTING THOSE PROPOSALS AND THEN TURN TO A REVIEW OF OPM'S OWN BUDGET.

FIRST, WE HAVE TRANSMITTED TO THE CONGRESS THE "CIVIL SERVICE SIMPLIFICATION ACT OF 1987" TO PROVIDE THE AUTHORITY TO IMPLEMENT A REFORMED PERSONNEL SYSTEM FOR THE FEDERAL GOVERNMENT. THE PRESIDENT DECIDED LAST YEAR THAT WE SHOULD MOVE TO REPLACE OUR 60-YEAR-OLD CLASSIFICATION SYSTEM WITH A MODERN MANAGEMENT SYSTEM WHICH EMPHASIZES SIMPLIFIED APPROACHES TO CLASSIFICATION, MORE FLEXIBILITY IN HIRING, PAY-FOR-PERFORMANCE, AND LESS EMPHASIS ON PAPERWORK AND FORM AT THE EXPENSE OF SUBSTANCE. THE SYSTEM WILL BE IMPLEMENTED IN A COST-NEUTRAL MANNER, AND WILL PROVIDE MANAGERS WITH THE TOOLS THEY NEED TO MANAGE AND EMPLOYEES WITH THE INCENTIVES TO PERFORM TO THEIR FULLEST POTENTIAL.

IN JUNE OF LAST YEAR, A NEW RETIREMENT SYSTEM WAS CREATED TO COVER FEDERAL EMPLOYEES HIRED ON OR AFTER JANUARY 1, 1984. THAT NEW SYSTEM MORE CLOSELY PARALLELS PRIVATE SECTOR PRACTICE THAN THE OLDER CIVIL SERVICE RETIREMENT SYSTEM, WHICH RETAINS EXCESSIVELY COSTLY FEATURES THAT WERE NOT INCORPORATED INTO THE NEW SYSTEM. FOR EXAMPLE, ONLY 3 PERCENT OF ALL PRIVATE PENSIONS ARE FULLY AND AUTOMATICALLY ADJUSTED FOR INFLATION, YET BENEFITS UNDER THE OLD RETIREMENT SYSTEM CONTINUE TO BE LINKED TO THE TOTAL CHANGE IN THE CONSUMER PRICE INDEX.

IN ORDER TO PROVIDE CONSISTENCY AND EQUITY WITHIN THE FEDERAL SERVICE, WE PROPOSE TO REVISE THE METHOD OF COMPUTING COST-OF-LIVING ADJUSTMENTS UNDER THE OLD CIVIL SERVICE RETIREMENT SYSTEM TO CONFORM WITH THE "CPI-MINUS-ONE" FORMULA USED IN THE NEW FEDERAL EMPLOYEES' RETIREMENT SYSTEM. THIS PROPOSAL WOULD NOT CHANGE THE ENTITLEMENT TO COST-OF-LIVING ADJUSTMENTS, BUT ONLY THE COMPUTATION FORMULA.

ANOTHER ITEM OF INTEREST TO THIS SUBCOMMITTEE IS OUR PROPOSAL THAT THE POSTAL SERVICE, AS WELL AS THE DISTRICT OF COLUMBIA GOVERNMENT, BEGIN TO PAY THE FULL COST OF RETIREMENT BENEFITS. WE CONTINUE TO BELIEVE THAT THESE ENTITIES, WHICH ARE INTENDED TO BE SELF-SUFFICIENT, SHOULD PHASE OUT THE HIDDEN SUBSIDIES THEY HAVE RECEIVED FROM THE TREASURY IN EMPLOYEE BENEFITS.

IN ADDITION, WE ARE PROPOSING TO REMOVE FROM THE OLD AND NEW RETIREMENT SYSTEMS PROVISIONS WHICH PERMIT EMPLOYEES TO WITHDRAW ALL THEIR CONTRIBUTIONS TO THE SYSTEMS IN A LUMP

SUM AT THE TIME OF RETIREMENT. THESE EXTREMELY COSTLY PROVISIONS POSE MAJOR PROBLEMS IN MEETING THE GOVERNMENT'S DEFICIT REDUCTION TARGETS.

TAKEN TOGETHER, THE RETIREMENT CHANGES WE ARE PROPOSING WOULD REDUCE OUTLAYS IN FISCAL YEAR 1988 BY $1.5 BILLION, AND INCREASE RECEIPTS BY AN ADDITIONAL $10 MILLION.

IN THE AREA OF HEALTH BENEFITS, WE ARE PROPOSING A CHANGE IN THE METHOD OF COMPUTING THE GOVERNMENT'S CONTRIBUTION TOWARD THE PREMIUMS OF ENROLLEES IN THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM. THE CURRENT FORMULA WAS ESTABLISHED IN 1970, AT A TIME WHEN ONLY ONE-SEVENTH AS MANY PLANS PARTICIPATED IN THE PROGRAM AND WHEN A MAJORITY OF ENROLLEES WERE IN THE HIGH OPTIONS OF THE LARGEST PLANS. BY CHANGING TO A WEIGHTED AVERAGE THAT REFLECTS THE PREMIUMS OF ALL PLANS IN THE PROGRAM AND THE DISTRIBUTION OF ENROLLEES AMONG THOSE PLANS, WE WILL MAKE THE PROGRAM REFLECT CURRENT REALITIES.

WE ALSO PROPOSE TO ELIMINATE THE CONTINUING SUBSIDIES TO THE POSTAL SERVICE AND THE D.C. GOVERNMENT IN THE FORM OF GOVERNMENT CONTRIBUTIONS TOWARD HEALTH BENEFITS COVERAGE FOR THEIR ANNUITANTS AND THEIR SURVIVORS.

AS A WHOLE, OUR HEALTH BENEFITS PROPOSALS WOULD DECREASE THE AMOUNT REQUIRED FOR OUR HEALTH BENEFITS APPROPRIATION BY OVER $500 MILLION IN FISCAL YEAR 1988. THERE WOULD BE ADDITIONAL SAVINGS TO OTHER GOVERNMENT AGENCIES WHICH CONTRIBUTE TO THE COST OF HEALTH BENEFITS FOR THEIR EMPLOYEES.

IN THE AREA OF EMPLOYEE PAY, WE WILL PROPOSE REPLACING THE CURRENT SYSTEM OF WITHIN-GRADE INCREASES WITH MORE PERFORMANCE-BASED PAY INCENTIVES. THIS INITIATIVE WILL HELP SPUR PRODUCTIVITY BY EMPHASIZING HIGHER PAY FOR SUPERIOR PERFORMERS, EITHER THROUGH ONE-TIME PAY INCREASES OR THROUGH INCREASES IN BASIC PAY.

THE ADMINISTRATION IS ALSO REVIEWING A LEGISLATIVE PROPOSAL TO PROVIDE A MAJOR NEW FEDERAL EMPLOYEE BENEFIT, INSURANCE FOR LONG-TERM HEALTH CARE. THIS PROPOSAL WILL ENABLE EMPLOYEES, WITHIN THE FRAMEWORK OF THE PRIVATE SECTOR ADMINISTRATION OF THE FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM, TO PROTECT THEMSELVES AGAINST THE DEVASTATING COSTS OF LONG-TERM HEALTH CARE, AT NO ADDITIONAL GOVERNMENT COST.

NOW I WOULD LIKE TO TURN TO THE APPROPRIATIONS REQUEST FOR OPM ITSELF. WE ARE ASKING FOR A SALARIES AND EXPENSES APPROPRIATION OF $102.4 MILLION. APART FROM INCREASES OF NEARLY $2 MILLION FOR SPACE RENTAL AND MORE THAN $3 MILLION REPRESENTING AGENCY CONTRIBUTIONS TO THE NEW RETIREMENT SYSTEM, OUR REQUESTS HAVE DECREASED IN VIRTUALLY EVERY AREA. OUR DROP IN FULL-TIME EQUIVALENT EMPLOYMENT IS NEARLY 2½ TIMES LAST YEAR'S DECLINE.

SUBSTANTIAL SAVINGS HAVE RESULTED FROM THE REORGANIZATION OF CENTRAL OFFICE FUNCTIONS, PRODUCTIVITY IMPROVEMENTS, INCLUDING INCREASED USE OF AUTOMATIC DATA PROCESSING TO SUPPORT VARIOUS PROGRAMS, AND GREATER RELIANCE ON PRIVATE SECTOR RESOURCES.

THE ONLY SALARIES AND EXPENSES INCREASE OF ANY SIGNIFICANCE IS AN ADDITIONAL $225,000 REQUESTED FOR THE OFFICE OF GOVERNMENT ETHICS, WHICH IS NEEDED TO ENHANCE OUR PROGRAM TO EDUCATE FEDERAL EMPLOYEES ON THE ETHICS IN GOVERNMENT ACT AND INCREASE THE FREQUENCY OF AUDITS OF EXECUTIVE AGENCY ETHICS PROGRAMS.

FOR OUR ADMINISTRATION OF THE RETIREMENT AND INSURANCE PROGRAMS, WE ARE REQUESTING AN EXPENSE LIMITATION OF $65.7 MILLION. IN ADDITION TO HIGHER COSTS FOR SPACE AND VARIOUS SUPPORT SERVICES, A $1 MILLION OF THE INCREASED REQUEST IS OPM'S NEW RESPONSIBILITY FOR IMPLEMENTING AND OPERATING THE BASIC BENEFIT PLAN OF THE NEW FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

THE OPM APPROPRIATIONS ALSO INCLUDE PAYMENTS FOR THE GOVERNMENT-WIDE EMPLOYEE BENEFIT PROGRAMS. WE ARE ASKING FOR $2 BILLION TO PAY THE GOVERNMENT SHARE OF THE COST OF HEALTH BENEFITS FOR ANNUITANTS. LET ME REITERATE THAT WE ARE PROPOSING THAT THE POSTAL SERVICE AND THE D.C. GOVERNMENT BE REQUIRED TO PAY THEIR SHARE OF THIS COST FOR THEIR OWN ANNUITANTS, RATHER THAN CONTINUING TO LEVY THIS CHARGE AGAINST THE GENERAL FUND OF THE TREASURY.

FOR THE CIVIL SERVICE RETIREMENT FUND, WE ARE REQUESTING AN APPROPRIATION OF $4.7 BILLION IN CURRENT AUTHORITY. THIS PAYMENT, WHICH IS REQUIRED UNDER THE FINANCING SYSTEM ESTABLISHED IN 1969 BY PUBLIC LAW 91-93, REPRESENTS AMORTIZED PAYMENTS OVER A 30-YEAR CYCLE FOR THE RETIREMENT COSTS OF PAY INCREASES AND BENEFIT LIBERALIZATIONS.

FINALLY, I WOULD LIKE TO MENTION TWO GENERAL PROVISIONS OF PARTICULAR INTEREST TO OPM. ONE IS THE BAR ON PAYMENTS FOR ABORTIONS UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM. THE ADMINISTRATION STRONGLY SUPPORTS THE CONTINUATION OF THIS BAR. THE OTHER GENERAL PROVISION WHICH CONCERNS US IS THE CAP ON PAY INCREASES FOR FEDERAL WAGE EMPLOYEES. ALTHOUGH WHITE-COLLAR EMPLOYEES' PAY CAN BE CAPPED ADMINISTRATIVELY UNDER THE PRESIDENT'S ALTERNATIVE PLAN AUTHORITY, WE MUST RELY ON THE GENERAL PROVISION IN THE APPROPRIATIONS BILL TO PROVIDE CONSISTENT TREATMENT FOR FEDERAL BLUE-COLLAR WORKERS. WE URGE THAT THIS CAP BE CONTINUED.

THANK YOU. I WOULD BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

FISCAL YEAR 1988 OMB REQUEST

Senator DECONCINI. Thank you. Do any of your colleagues accompanying you have any statements?

Ms. HORNER. No, Mr. Chairman.

Senator DECONCINI. Director, I have asked this question to almost everybody who has appeared before us. You are requesting a budget of $102,360,000 for next year which is a small increase over 1987.

Is this the original budget request that you submitted to OMB for 1988?

Ms. HORNER. May I ask our budget chief to speak to that?

Mr. CONLEY. You are referring, sir, to did we have any further reductions from the administrative proposals that were made?

Senator DECONCINI. What I would like to know is what was your original request to OMB?

Mr. CONLEY. I don t remember the exact amount, sir. The only additional amount was a request for the 1987 supplemental which the House has now included.

Senator DECONCINI. So the $102,360,000 is exactlywhat you submitted, short of the supplemental for 1987, for 1988; is that correct?

Mr. CONLEY. Other than any technical adjustments. There were no policy issues.

Senator DECONCINI. You got everything that you wanted in your request?

Ms. HORNER. Mr. Chairman, I think it would be vividly in my mind if it were significantly otherwise.

Mr. CONLEY. Nothing of substance, sir.

Senator DECONCINI. Nothing of substance. Thank you.

There seems to be a growing momentum in Congress, particularly among those advocating Gramm-Rudman-Hollings, for an across-the-board freeze of everybody s budget except those that are mandated or entitlements.

What would a flat freeze, with no inflationary increase, do to the OPM operations?

Ms. HORNER. Well, Mr. Chairman, it would cause us difficulty in the areas I have identified as the areas for which we require an increase, specifically our contributions to the Federal Employees' Retirement System.

Senator DECONCINI. What would you have to do or would you like to submit that to us?

Ms. HORNER. I think it would be betterto submit that.

Senator DECONCINI. What I would like to encourage you to do is give us a realistic approach. I am not looking for the Draconian effects but the realistic approach of what you would have to do to alter your budget. I am interested, because I would like to know what kind of a crimp it is going to put in Government operations if that should be what is adopted. Can you do that for us?

Ms. HORNER. Yes, Mr. Chairman.

Senator DECONCINI. Thank you.

[The information follows:]

EFFECT OF ACROSS-THE-BOARD FREEZE

The OPM's fiscal year 1988 salaries and expenses budget request contains three items of increase: agency contribution for FERS; increasing payments for GSA Rent and other overhead items; and, increased training and audits for the Office of Government Ethics.

If we are denied the increases for FERS and Rent, which amount to $5 million, we would have no choice but to cut back further on programs and outplace staff. OPM's salaries and expenses budget is primarily salaries and benefits. Therefore, to absorb $5 million in additional cost we would need to eliminate approximately 170 FTE's or 8.5 percent of the staff. A reduction of this size from our already reduced base (our salaries and expenses FTE's have dropped 45 percent since fiscal year 1981) would have adverse affects on our ability to service our clients, mainly the other Federal agencies and the public. Job inquiries, applications, evaluations, and investigations are just some of the workloads that would be backlogged or reduced in scope.

Finally, if the request for the Office of Government Ethics were denied, the program would not be able to train as many Federal employees or audit agencies programs as frequently, thus leaving the Government more vulnerable to possible ethics violations.

In our request for transfer authority for trust fund administration, the increases are for FERS implementation, increased costs for Rent and other overhead, and agency contribution for FERS.

Without the FERS money, it will be impossible for OPM to fully comply with the requirements of the new retirement law in a timely manner. Likewise, if the Rent and overhead increases are not funded, approximately 200 FTE's would have to be cut. This would severely hamper our ability to process retirement and other cases or answer annuitant or employee inquiries in a timely manner.

As you can see, we have no real program increases planned. We are making the economies necessary to operate in a level resource environment and stil provide quality service. However, given our already reduced base, we could not absorb the rent, overhead, and FERS increases without cuts in service and danger to our programs.

Senator DECONCINI. We note on page 17 of your justification that the so-called other programs funding has increased rather substantially since 1986 from $1,576,000 in 86 to $2,973,000 next year. That represents an increase of 1988 percent in 3 years.

How do you explain this huge percentage increase over 3 years?

Ms. HORNER. Mr. Chairman, I believe that is a function of increased activity in our responsibilities in the area of voting rights. The Department of Justice requires us to assist in surveillance of voting in locations around the country where there is some question regarding the propriety of the activity.

Senator DECONCINI. So, is that salaries, travel, or what is it in particular?

Ms. HORNER. It would largely be travel accommodations for our staff.

Senator DECONCINI. For your staff.v

Ms. HORNER. Yes.

Senator DECONCINI. It is not any new staff that was hired for that?

Ms. HORNER. No; it is not. We use OPM staff.

Senator DECONCINI. The travel costs for that?

Ms. HORNER. Yes.

Senator DECONCINI. And that means that the Justice Department has put thatmany additional demands or requirements on you to comply with this; is that correct?

Ms. HORNER. Yes, Mr. Chairman; by law we must supply them with what they ask.

Senator DECONCINI. Do you get any reimbursements from justice for that?

Ms. HORNER. No, Mr. Chairman.

Mr. CONLEY. It is an appropriation under the Voting Rights Act of 1965. We have a responsibility for performing the observations so we have to seek appropriations based on what estimates they give us at the beginning of the year.

Senator DECONCINI. I see. Justice gives you an estimate of what they think they will request.

Mr. CONLEY. Of what they think they will require us to do, but we make the request, yes, sir.

Senator DECONCINI. They get some money for the Voting Rights Act, too, but I don t know how much.

Mr. CONLEY. They have other responsibilities under the act, yes, sir.

Senator DECONCINI. So this figure in 1988 is based on what they have submitted; or what you think they are going to call on you to do?

Mr. CONLEY. Yes; it is, sir.

Senator DECONCINI. How close were they on a yearly basis in the past?

Mr. CONLEY. The most trouble we have ever had, sir, is that our travel costs have come close to exceeding the amount included in the President's budget, which was not allowed under the provisions in the appropriation act. We have usually had enough money to carry it out

but sometimes the travel requirements are too much. So about 2 years ago we asked for and the Congress granted us an exception to that travel limitation. Voting rights travel is no longer under limitation.

Senator DECONCINI. I see, you mean you can use that of other accounts and what have you?

Mr. CONLEY. We can spend funds for travel without being under the limitation of the travel restrictions.

Senator DECONCINI. I see.

FEDERAL EMPLOYEES' RETIREMENT SYSTEM

Director Horner, I firmly believe that one of the real sleeping giants of the fiscal year 1988 budget cycle is the Federal Employees' Retirement System, known as the FERS, and how much each agency is ultimately going to have to pay to cover these mandatory costs. OMB has admitted to the subcommittee staff that they are only really guessing when they put together the fiscal year 1988 budget for the Federal agencies and that they could be off as much as 50 percent.

I don t know about your agency but a 50-percent misestimate on FERS for a small or even a large personnel intensive agency could be disastrous. How confident are you on your FERS estimate built into the 1988 budget that the Federal Government is going to be close to the mark?

Ms. HORNER. Mr. Chairman, CRS and OMB are operating on the assumption of a 40-percent switchover from the old system to the new system. My assessment would be that, if anything, that may be high.

Senator DECONCINI. It may be high?

Ms. HORNER. Yes, Mr. Chairman; but it is extremely difficult to tell. We are in a very volatile situation and there is really no way to tell because Federal employees will not begin to make up their minds on this until the open season beginning July first.

Senator DECONCINI. Is that July first or June?

Ms. HORNER. July 1 through December 31. I wish I could offer you some greater degree of certainty. I recognize the problem.

Senator DeConcini No; I can appreciate that. I hope you are right.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE HEALTH BENEFITS

The appropriation that covers the Government's share of health benefits costs for annuitants and survivors who no longer have an agency to pay the employer s share has increased dramatically since fiscal year 1986 from $776.7 million to $2 billion in fiscal year 1988. That is an increase of 160 percent in 3 years.

Can you explain why this amount has increased so substantially over the last three years?

Ms. HORNER. Yes, Mr. Chairman; last year we had an unusual situation in which we were rebating excess moneys paid by employees back to them and to the Government.

As a result of that we are no longer in a situation of excess and so costs have gone up. The proper comparison would be with the previous year to this year, I think, to get a better sense of the program.

Senator DECONCINI. Yes.

Ms. HORNER. Two years.

Senator DECONCINI. Yes; it is $300 and something million over last year; is that correct?

Mr. CONLEY. $329 million. Yes; that is correct. That is the increase.

Ms. HORNER. That is the adjustment that we expect to make for increased premiums.

Senator DECONCINI. Even that is a substantial increase just over last year, wouldn't you agree?

Ms. HORNER. It is an increase, Mr. Chairman, but it is not as substantial as it looks. However, we do anticipate an increase as aresult of medical inflation which is happening throughout the economy.

Senator DECONCINI. Do you expect a sizable increase like that for 1989?

Ms. HORNER. Again.

Senator DECONCINI. Yes, again, of $300 million?

Ms. BARBER. It is really too soon to tell anything about 1989 in health care. That is probably the most volatile section of the economy.

Senator DECONCINI. They are healthy increases. I realize you don't have much to do about them.

FEDERAL EMPLOYEE BENEFIT INSURANCE

In your statement you indicated that the administration is reviewing a legislative proposal to provide a major new Federal employee benefit insurance for long-term health care. Is this the plan you devised and the one we discussed briefly in my office?

Can you briefly explain this proposal to the committee and give us some idea of the short-term and long-term effects and the cost savings, if any?

Ms. HORNER. Yes, Mr. Chairman; let me answer your last question first. No cost savings. That is simply a benefit. No costs, either. We were looking for a way neither to save moneynor to cost the taxpayer money but to make it possible for Federal employees who are concerned about their long-term health care needs, as every American is increasingly concerned, to have this as an option. Not as a requirement but simplyan additional option.

Our thinking went this way. In the early and middle years of an employee s life, that employee is concerned about having life insurance to cover the possibility of early death and the need to support his or her family and to take care of childrens' education and so on. But beginning in the late middle years, somewhere around the age of 50, most people s concerns go to the question of whether they are going to be a burden to their families in old age.

Therefore, it occurred to us that one way we might alleviate this concern of Federal employees without costing the taxpayer any additional money is to allow the employees the option of trading in their life insurance at age 50, retaining several thousand dollars worth to cover funeral expenses and so on, but trade in that life insurance, pay an ad-

ditional premium, and in exchange for that trade, alleviate the concern of late middle and old age, which is long-term care.

We have discussed this with Metropolitan Life, which operates the FEGLI program on behalf of the insurance industry. We have discussed it with a lot of employees and employee groups. Everyone thinks it is a good idea. Some would prefer to see even more or some would prefer to have the Government fund a greater benefit, but everyone thinks that it is desirable for Federal employees to have this opportunity.

Senator DECONCINI. What is the reaction of the Federal employees?

Ms. HORNER. The Federal employees have been extremely positive. As I said, some have indicated they would prefer a larger Government funding.

Senator DECONCINI. No one has indicated any opposition to that operation, is that correct?

Ms. HORNER. No; I don t believe so, Mr. Chairman.

COMBINED FEDERAL CAMPAIGN CHANGES

Senator DECONCINI. Thank you. Let me turn to the Combined Federal Campaign, something that you and I have talked about many times. I would like to commend you and your staff, especially your General Counsel, Hugh Hewitt, for making proposals that would improve the Combined Federal Campaign.

It is my view that the Combined Federal Campaign is not only a vital source of charitable funds to the participant agencies, but must be a model charitable campaign for other private charitable campaigns that they may follow.

I have been critical of some of the efforts of your predecessors to politicize the campaign and your efforts to clean this up are greatly appreciated and I commend you. I must tell you that I am a bit dismayed to learn that you will be reissuing the 1984 regulations again this year.

These regulations, as you know, contain very substantial problems. I hope that your efforts to improve the campaign will reach fruition with the 1988 campaign.

Do you have plans to issue new regulations to govern 1988 campaigns?

Ms. HORNER. Mr. Chairman, we are really between a rock and a hard place. We have a Presidential Executive order which very clearly mandates a change in the status quo toward inclusion only of traditional health and welfare charities, and we also have, as I know you know, some problems in the campaign which we would like to fix. I think we could rather easily agree on some of these problems that we would mutually like to fix.

Unfortunately, in order to write new regulations we would be required to violate the injunction against the Presidential Executive order. What we are trying, in conversations with your staff and other interested parties, is to identify those on which we agree and publish new regulations. If we can reach agreement on these problems, it would

allow more of the money that is currently going into administration, for instance, actually to go to the charities.

We think we are not getting all the money out to charities that we could, and, there are some other problems. So I am very grateful that we have had the opportunity to work with your staff to identify some of these problems and I hope that we can fix them in the near future.

Senator DECONCINI. Well, can you share with us some of your proposals with the committee, or are you prepared to do that?

Ms. HORNER. Mr. Chairman, I am really not prepared to do that at this time, but I think my General Counsel has opened areas of discussion.

Senator DECONCINI. Will the new methods be included in the proposed regulations for the 1988 campaign?

Ms. HORNER. Yes, Mr. Chairman; I am hoping to set forth my sense of these problems in those regulations.

CFC MANAGEMENT

Senator DECONCINI. Of course, I continue to be concerned that the campaign management has been restricted to one of four federated groups of the United Way. The financial information and campaign reports have not been shared with other federated groups. Is your office taking steps to broaden the participation in the management?

Ms. HORNER. May I ask Hugh Hewitt to respond to that question, Mr. Chairman?

Senator DECONCINI. Sure.

Mr. HEWITT. Mr. Chairman, that is something of a bad rap on the United Way, because the complexity of campaign organization is such it takes a certain critical mass to run a campaign effectively. We know some groups, such as the international service agencies, want to be the PCFO. In some of the smaller campaigns, they do bid and they do succeed, and they do a tremendous job. But they are limited by the amount of their resources and full-time staff.

One development that we have discussed and one that is alarming us is the movement by private consulting firms into bidding for PCFO status under the cloak of one of the other federations. This alarms us because they are not accountable to OPM nor to the LFCC's in the way that we would prefer. So I would say that yes, it is unfortunate that there aren't more charities as healthy and as vigorous as United Way to compete, but a surface competition might do injury to the integrity of the campaign, if we just simply forced people who were not ready or able into the role of PCFO.

Senator DECONCINI. You mean if you permitted the employee to make that decision, is what you are saying?

Mr. HEWITT. Well, the decision on selection of the PCFO is made by the local Federal coordinating committee under the supervision of OPM. Those are Federal employees. Overwhelmingly they choose to do business with the United Way, not because of inertia and not because of any kind of deals under the table but because United Way can deliver the services.

Senator DECONCINI. Can you do anything to make a greater effort to get other groups to become a part of this?

Mr. HEWITT. Yes; many times we have exhorted some of the other federations to attempt to submit proposals, increase their budgets, but only if they are going to hire full-time staff that they can keep a close eye on it. I am very concerned about the movement into the competition of private sector consultant.

Senator DECONCINI. Do you make that known, or encourage that?

Mr. HEWITT. Yes, sir.

Senator DECONCINI. Let me go to drug testing for a moment here and then I will yield in just 1 minute to my colleague from Maryland.

EMPLOYEE DRUG EDUCATION

Ms. Horner, under section 6 of the Executive order you are tasked with five things to do to coordinate the agency drug testing program. I know that you have already issued the Governmentwide guidelines, but could you give us a brief rundown on where OPM is on the other four items mandated in section 6.

Ms. HORNER. Mr. Chairman, I assume that is our responsibility to support drug education programs? Is that the section you are talking about, employee assistance programs and so on.?

Senator DECONCINI. Yes.

Ms. HORNER. We have provided through our guidelines, in addition to our guidelines, a model employee assistance program for Federal agencies to use. In an attempt to insure that Federal agencies are entirely serious about this and don't simply engage in a pro forma or lip service form of assistance to Federal employees, we have also tested and now put into effect nationally a new training program for Federal supervisors to assist them in knowing how better to work with employees who are using drugs and alcohol to excess.

This has been well received and a lot of Federal employees think the time has come to get supervisors up to speed in this area. We are putting into place a hotline for Federal employees to use to get information about the circumstances surrounding the entire drug program.

Senator DECONCINI. When will that be available?

Ms. HORNER. We have started it. It is already available.

Senator DECONCINI. That is pretty quick.

Ms. HORNER. I am sorry, I don t have in my mind any of the other components you might want to know about.

Senator DECONCINI. Well, that is all right. Let me ask you to respond to that later.

Let me go into this Executive order that the President signed. The Director, you, of OPM have the primary responsibility for coordinating the agency drug abuse prevention plans. An amendment to the supplemental appropriation would essentially prohibit the implementation of the President's Executive order, and as I understand it, the freeze imposed by an Executive order is the product of concern over a lack of coordination among the hundreds of drug testing plans that are evolving.

Can you give us four or Five examples ofhow certain agencies are applying the sensitive positions standard for drug testing? Frankly I believe that this could be the weakest part of the proposed drug testing plan of the President because one agency clerk may be another agency s sensitive person.

How do you approach that?

Ms. HORNER. Yes, Mr. Chairman; that is a question which needs to be better answered by us. This is something we deliberated on long and hard in drafting the Executive order and the guidelines, because we were aware at that time that it might seem inconsistent. But this is what we thought and why we did it this way.

A clerk-typist in one agency bears a written similarity, a position description similarity to a clerk-typist in another agency, but because of the differing agency missions, or even differing missions within an agency, the degree of sensitivity of that job may be quite different from one location, one bureau, or agency, to another.

And, therefore, we decided that the person best in a position to take responsibility for making an accurate, and frankly, I think, conservative decision in this matter is the agency head.

It is the agency heads, the departmental secretary's, responsibility to make this decision and we put that discretion there in order not to do that kind of broad stroke decisionmaking which so often leads to absurd decisions because someone is going by the book and not by common sense.

We think that giving the heads of agencies this degree of discretion in selecting occupations will have the effect of sensible decisions, although it will give superficial inconsistency.

Senator DECONCINI. Do you have a clearinghouse or central area where an agency can go for advice? Do you have any suggestions for them without actually telling them what to do, or any information from other agencies that could show them, for ecample, what the Education Department has done, or what another agency has done?

Ms. HORNER. Yes; of course, we are in the process of sharing this information through the Drug Policy Advisor's Office—Dr. Macdonald's office—and in addition, the Justice Department reviews all of these plans for their legal correctness.

Senator DECONCINI. When you say you share that with him, what role does he actually play?

Ms. HORNER. Advisory

Senator DECONCINI. He advises you?

Ms. HORNER. We are in the process simply of informing him so that he is able to be knowledgeable on the subject. And frankly, I think our intention would be to let this process work and if difficulties arise then we will take any steps we need to.

Senator DECONCINI. Well, let me give you a hypothetical example. What if the FBI says, all our clerks are sensitive and we want them tested but U.S. Customs says, only clerks over a certain grade level are sensitive and only those will be tested.

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Will you step in or will you permit that agency, or will Macdonald step in, or is that just going to really beleft up to that administrator?

Ms. HORNER. No, Mr. Chairman; that is under the guidelines and the Executive order, the responsibility of the agency head, or the administrator of the program, if it is delegated by the Secretary of that department.

Senator DECONCINI. So you don t have authority to say, hey, I am going to decide, because you are both in law enforcement and that is the way it is going to be?

Ms. HORNER. No; I do not.

Senator DECONCINI. Nor does Mr. Macdonald?

Ms. HORNER. No; he does not. There are 400 occupations. It would be very difficult to try to rationalize centralized decisionmaking on this when they are doing so many different things.

COMPROMISE DRUG TESTING PROPOSAL

Senator DECONCINI. I happen to agree with that approach. Thank you. I hate to put you on the spot but this subcommittee is going to have to face the so-called Hoyer drug testing amendment in the very near future. Now, we could either agree with the freeze or deny the the freeze and let you and agencies move ahead without impediment from Congress, or we could propose a compromise that may be agreeable to the administration and it may be agreeable to Congressman Hoyer.

First, as I see it, there is very little centralized oversight or control over the formation or coordination of the agency, as you have just explained. That is not a criticism by me, let me assure you. It just appears that the agencies are all on their own with little centralized guidance.

Second, it is clear to me that the Congress is going to demand a role in shaping the drug testing campaign for Federal workers.

And third, it is clear that the courts are going to ultimately set some standardsfor drug testing. For all of these reasons, perhaps a compromise might be worthwhile, and let me suggest one.

Within 30 days of enactment of the supplemental, all agency plans would have to be submitted to the White House Drug Abuse Advisor, Mr. Macdonald, who would convene a working group of top administrative officials to address the agency plan. The working group would include you and other appropriate officials to be selected by the Drug Abuse Policy Advisor.

Within 30 days from the deadline for submission of the plan, the working group would submit a report to Congress containing a plan for implementing a comprehensive drug testing program that would include the best features of the plans and eliminate those pieces that are the worst.

This would include a standard for sensitive persons and, last, the drug testing implementation plan would go to the appropriate committees of Congress—probably the Government Affairs in the Senate and the House—and within 30 days from submission of the implementation report, Congress would have to take affirmative action to disapprove

the administration's plan or else the administration plan would go into effect.

Have you thought about such a compromise for such a complicated program as to address the Hoyer amendment that freezes the entire Executive order?

Ms. HORNER. Mr. Chairman, not that particular proposal, since I am just becoming aware of it at this moment. And if I may, I would like to review it and discuss it within the administration. But I would also like to say that I think that we are now in that gray area of, if it maybe ain't broke, maybe we don't need to fix it.

And what I mean by that is that I am not at all certain that the Congress will be displeased with the results if it allows the administration s program to go forward. I think that press reports of millions of employees who are about to be tested and so on have created an impression that may be out of sync with the reality which is about to unfold. And certainly we will entertain compromise suggestions but I would like to suggest that the Congress might be pleasantly surprised if it simply allowed the administration to go through with this.

Senator DECONCINI. Well, it may be? My observation is that it could be. What concerns me is just Congress nature not to just sit by and wait for that result but want to see some action. And I am not sure that the total freeze that Congressman Hoyer has been able to implement is the best thing to do.

I am only making a suggestion as to how you consider Congress to be a player in it without freezing it; without just stopping you dead in your tracks; and that is the only reason I concocted such a proposal. I have no pride of authorship in the proposal but my request is that you give some thought to permitting Congress to be a player in this for just the reason to achieve what appears to be what you want to achieve. It is not just to blanket millions of Federal employees for drug testing, but some real thought and consideration should be given by agency heads as to who is sensitive and who is not.

Quite frankly, I like that approach and I offer it only constructively for your consideration. I think it can be one alternative, because if nothing is done, then we will be faced with Congressman Hoyer's freeze once again. The Senator from Maryland? Senator Mikulski. Thank you very much, Mr. Chairman. You raise several issues that I would like to pursue with Ms. Horner and her team.

I would like to welcome you here today and tell you that in my questions I would like to deal with the implementation of the FERS, or the new Federal retirement. Also some questions on drug testing, and then if we have time on the new pay raise that you have given to secretaries in the Washington area that are driving the secretaries in the Baltimore area up the wall.

Ms. HORNER. And also the GS–8's and GS–9's in the Washington area.

Senator MIKULSKI. First Ms. Horner, I noted when I came in that you were making comments about the over 50 work force, of which I am a member. I noted in your testimony that you were talking about the design of a health insurance program for long-term care. One, I would encourage you really to proceed with that and we would be looking forward to hearing about this plan, because I do believe that one of the ways we will ultimately prepare for coping with the graying of America is for there to be private sector insurance available so those at an early age could begin to plan.

Does your concept, though, of long term care insurance mean nursing home care, home health care, hospice care.

Ms. HORNER. what it includes is all of those things, but not full coverage for all of them. Itprovides approximately two-thirds coverage for up to 3 years.

That is, it would provide $40 a day for nursing home care, or $20 a day for home based care for up to 3 years, which is well over the typical length of long-term care.

Senator MIKULSKI. Would Your program also be available say in conjunction with Medicaid? Well, let me give you an example because I know it is difficult to follow these questions. The provision of nursing home care in a modest but adequate facility for say something like Alzheimer's could range anywhere from $2,000 to $4,000 a month, but let's say $100 a day.

You would provide $40. If a family has to spend down their resources, as often happens and turns to Medicaid, would your insurance continue to be operative as well?

Ms. HORNER. Yes; it would.

Senator MIKULSKI. But it would not be adequate enough to pay for the full nursing home coverage?

Ms. HORNER. That is correct. It is not designed to do that. Well, in low cost-of-living areas it would cover the full amount. In high cost-of-living areas it would not. There may be some places where you can have $40 a day nursing home care, but I think the average would be about $50.

Senator MIKULSKI. Just one final question and Ms. Barber can help you out on this. I like the idea that we could take out enough insurance so we wouldn't have to turn to Medicaid and, therefore, any additional responsibility for the Government. Why is that not possible? Is it that the cost was too prohibitive for one to fully undertake an insurance program for adequate coverage?

Ms. HORNER. For full coverage, you mean?

Senator MIKULSKI. For full coverage.

Ms. HORNER. Yes; it was simply a matter of cost, and also a sense that whatever full coverage is, the price will go up. In other words, if full coverage is afforded then those who provide this care will simply raise their prices.

Senator MIKULSKI. Well, at another time I would really welcome your analysis on why you cannot provide full coverage, because as I sit, for example, on Senator Kennedy's committee and we struggle with this issue it would help me not to re-invent the wheel to know why you couldn't provide adequate coverage.

Because I would imagine you have had extensive conversations on the subject.

Ms. HORNER. We have done that and one of the problems is that we are trying to keep the premiums low enough to have universal coverage and we don't want those premiums to have to go up so high that some people are knocked out of the coverage entirely. It is a balancing act and there is room for discussion on where it ought to be located.

Senator MIKULSKI. Well, I would like to talk with you more about it, but now I would like to go to FERS. As soon as I talk about it people think that it comes in mink and muskrat and several other things.

THRIFT INVESTMENT BOARD

I am talking about something more difficult. You have been clearly handed one of the toughest jobs in Government. I think that once open season begins you will really have to ride the whirlwind and I am interested in how we are going to implement this program, making sure you have the adequate resources so that people make prudent decisions as to what they are going to do.

I consider this probably one of the most important decisions a Federal employee will have to make, particularly those hired before 1984 that are trying to determine what is the best action.

Right now I am concerned about the ability of OPM and other agencies to meet employee information needs on both the FERS program and the up coming season for switching from the CSRS to FERS in July. I have gotten reports from employees all over, and particularly since Maryland has so many Federal employees who still do not have the thrift plan brochures or application forms.

They just don't understand it. Could you explain to me what the situation is and do you intend to extend the periodduring which employees can participate in the thrift plan?

Ms. HORNER. Senator, the Thrift Investment Board, which is a unit entirely separate from OPM——

Senator MIKULSKI. The Thrift Investment Board?

Ms. HORNER. The Thrift Investment Board, which is a unit entirely separate legally, administratively and so on, from OPM, is responsible for getting out information on that aspect of the plan. But I would like to offer you some reassurance in the areas of communication relating to the——

Senator MIKULSKI. They aren't under you, Ms. Horner?

Ms. HORNER. No; they are not, Senator.

Senator MIKULSKI. Well, who are they responsible to?

Ms. HORNER. They are responsible to a board. They are an independent board.

But they will come talk to you, I am sure. What has happened, I understand, just from hearing about their testimony, is that they have delivered some booklets which agencies didn't realize were time-sensitive and, therefore, have not distributed them.

Senator MIKULSKI. Well, given that, at least though they are independent, I would hope that you are monitoring who has the information and to what degree that information has been disseminated within agencies.

Ms. HORNER. Senator, I think congressional oversight is the monitoring entity here.

Senator MIKULSKI. Ms. Horner, you don t think that is your responsibility to see this?

Ms. HORNER. Senator, we have a very major responsibility for which we are using all of our resources to address and that is the defined benefit portion of this plan. I would be happy to tell you what we are doing to get our part of this job out.

Senator MIKULSKI. Well, I do want to come back to that but——

Ms. HORNER. But if we were to get into the thrift plan part, we would be violating the law Congress passed which clearly established who is in charge of what. And so it would be quite inappropriate for us to do that, although we have been, frankly, of great assistance informally to the Thrift Investment Board. It had a tough, tough job getting set up so fast.

Senator MIKULSKI. Would you consider extending the time period, though, if there is not adequacy of information disseminated?

Ms. HORNER. I think that would require a legal change.

Senator MIKULSKI. Ms. Barber, could you tell us who are you before responding?

Ms. HORNER. She is our Associate Director for Retirement and Insurance and is responsible for our part of the new system and also has informally helped the Thrift Investment Board as it scrambled to get set up over the early months of this year so she isfamiliar with their work.

INFORMATION DISSEMINATION ON FERS

Senator MIKULSKI. Well, what I am interested in is people having adequate information disseminated in a timely way in order to make a prudent decision, and within that framework, having the time to do it. So that is what I am trying to understand and if the TIB hasn't gotten the information out to agencies then they should do that.

Ms. HORNER. We have a responsibility which is sort of parallel to theirs and the Social Security Administration is also involved in this, because it is providing earnings information to Federal employees. What we at OPM are doing is, just last Sunday night we kicked off a week long training conference for Federal employees who were going to go out and train other people to be decision advisors to Federal employees, to work one on one where necessary. In addition, we have put out some video tapes and some booklets. People who use computers can use a computerized worksheet; for employees who don t use computers, a manual worksheet.

Senator MIKULSKI. Well, I understand that you pledged an OPM handbook, a computer assistance program, two video tapes, and 4,000 trained personnel; right?

Ms. HORNER. Yes.

Senator MIKULSKI. Now, GAO has told the Congress that they estimated that you needed one advisor per 500 employees. Now, I recognize that many employees might not need assistance, because there is not a whole lot for them to figure out, or long time earnings, and so on. Could you tell me whether you think that 4,000 are enough and do you have contingency plans for getting more people on line?

Ms. HORNER. We think that is enough, but if it begins to lookas if it isn't enough, we have the capacity to redouble our training efforts and to continue that training well beyond the time period we have currently set aside for it. So we intend to be monitoring this very, very closely, Senator.

We are aware that there is a very short period of time to get a lot of communication and information out. We are doing little time saving things such as putting urgent time-sensitive labels on the materials as we have them distributed to the agencies so that the receiving end will know that this has to be done quickly.

Senator MIKULSKI. Well, you also commented that you are involving the management chain in the educational process. Is that what your conference is?

Ms. HORNER. It is to train the trainers who will then go out and train other people to be decision advisors.

Senator MIKULSKI. Well, GAO also commented that you needed to have a management chain and the educational process for the information to come out. Can you tell what role you expect line management to play?

Ms. HORNER. Yes.

Senator MIKULSKI. You know how it works, Ms. Horner. Somebody goes over to their supervisor and says, "Harry, can you read this thing here?" And then he says, "George, or Betty, what that means is——"

Ms. HORNER. We are working very closely and intensively with the personnel directors, who are on the line throughout the Federal Government, to get this done and they have been made acutely aware, both from our end and from the Federal employee end, that there is a big job to do.

Senator MIKULSKI. Do you think you will have the time to do this?

Ms. HORNER. Yes, Senator; I do. We have it carefully planned. We can't fail to execute any part of that plan in a timely way, but so long as we execute it, and we intend to, we will succeed at it.

Senator MIKULSKI. Well, I would like you to keep me posted because I have Marylanders who are calling me over at NOAA and the National Bureau of Standards, and some others who just haven't, at least as of 10 days ago, gotten their information.

Ms. HORNER. That is the thrift information that has created a problem.

Senator MIKULSKI. So it is the Thrift Information Board?

Ms. HORNER. Yes.

Senator MIKULSKI. Are you aware of this Thrift Information Board?

Ms. HORNER. Thrift Investment Board.

Senator DECONCINI. No; I am not.

Senator MIKULSKI. I hope they are watching the money markets quicker than they are watching this one.

Mr. Chairman, I would hope that perhaps we could ask them what they are doing in terms of this and whether they have the adequate resources as they start up.

Mr. Chairman, I have a whole other set of questions on drug testing. I have taken a lot of time. I would be happy to wait to a second round.

Senator DECONCINI. If you do not mind, Senator Mikulski, why don't we yield to the Senator from New York. He has a statement and just a couple of questions. Then we will come back to you.

Senator MIKULSKI. OK.

PREPARED STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Thank you very much, Mr. Chairman. I would like to submit my statement for the record as if read in its entirety.

Senator DECONCINI. Without objection.

Senator D'AMATO. Thank you.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE D'AMATO

Mr. Chairman, I welcome to this afternoon's hearing Ms. Constance Horner, Director of the Office of Personnel Management, Chairman Thomas of the Federal Election Commission, and Mr. John Shannon, Executive Director of the Advisory Commission on Intergovernmental Relations. I have reviewed the prepared testimony, and I look forward to discussing with you your respective agencies' fiscal year 1988 budget requests.

I would like to focus first upon the issues involving the Office of Personnel Management. Ms. Horner, in your statement you highlighted a number of major legislative initiatives. I understand OPM is actively engaged in legislative efforts to streamline a number of Federal personnel, employee, and pay benefits programs. This committee is eager to tackle these important issues, and I look forward to participating in this review.

It appears that OPM has also been actively involved in another matter of great importance to Federal employees. Quite frankly, I am a little concerned that it wasn't mentioned in the prepared statement for today's hearing. The issue is drug testing. I understand that OPM was responsible for constructing a guidance report for drug testing Federal employees. I am very interested in OPM's involvement in developing each agencies' drug-testing guidelines. These guidelines will help each agency establish its own plans, the objective of which is to establish a more reliable, productive civil service.

We must make certain in such programs that the interests of our Federal employees, the administration, and this Congress are adequately considered. I want to be particularly certain that, as OPM and the agencies work to develop drug-testing procedures and guidelines, equal attention will be given to drug rehabilitation programs for Federal employees.

To turn, now, to the Federal Election Commission, I welcome the Commission's Vice Chairman, Mr. Thoams Josefiak, and Commissioner John Walter McGarry, both of whom are accompanying Chairman Thomas today.

I have reviewed Mr. Josefiak's very thorough and thoughtfully prepared statement of the FEC's fiscal year 1988 budget proposal, as well as its fiscal year 1987 supplemental request. According to Mr. Josefiak's statement, the FEC is asking for a funding level of $14,174,000 and a staffing level of 258 full-time equivalents [FTE's]; $390,000, or 24 percent, of this increase of $1.374 million over fiscal year 1987 apprpriated levels is to meet projected agency needs. Let me say that, in view of the scope of its mandate and the sensitivity of its obligations, I feel that the FEC is doing a tremendous job.

Interestingly, the Commission is facing the first publically financed Presidential campaign in which no incumbent President will be seeking reelection. Possibly as a result, nearly twice as many candidates may qualify for Federal matching funds as the number in 1980 or 1984. The statement indicates that the Commission may need $260,000 in additional funding for certification and investigatory requirements to meet its responsibilities under the law.

The FEC also requests additional funding to complete its data recapture process to restore their computerized research services before the new political season. Fiscal constraints have constrained the Commission in this effort. However, it appears from the statement that with $69,000 in extra funding, the FEC can complete this effort in fiscal year 1988. I look forward to hearing how it proposes to do this.

Finally, I am most interested in learning what steps the Commissioners feel can be taken to expedite enforcement proceedings. I know this is an oft-cited complaint; my question is, will additional funding help—or instead be directed into some area that will add administrative burdens to candidates rather than improve efficiency?

Turning to the third agency being reviewed today, I commend the Advisory Commission on Intergovernmental Relations for operating superbly under significant budget constraints. The Commission has adjusted well to the 46-percent reduction in its appropriations, a reduction Congress slated for fiscal years 1987 through 1989.

The ACIR's unique vantage point on our political process enables it to monitor our changing Federal system and analyze the many intergovernmental issues that arise each year. The broad mix of individuals from the private and public sector on the Commission adds to its credibility and effectiveness. Indeed, our Federal system of government can well use such a forum to meet and discuss conflicting interests and to promote cooperation.

My good friend Senator Durenberger has served this Commission well for the past several years. He is, it seems, an able mediator as well as a distinguished legislator. I thank him for his service to the ACIR. I look forward to hearing the Commission's planned programs for fiscal year 1988.

Mr. Chairman, I thank you and look forward to today's testimony.

PROFICIENCY OF DRUG TESTING LABORATORIES

Senator D'AMATO. Mr. Chairman, I do have several questions that I would like to leave for the record and maybe just touch on one or two at this time.

It would seem that there is a very real problem as it relates to the drug testing laboratories that we have. I refer particularly to the fact that the Federal Railroad Administration has decided to switch from the Civil Aeromedical Institute known as CAMI in Oklahoma to the University of Utah for drug testing. There was a significant difference in the speed and the precision of the tests conducted by the two labs. As a matter of fact, the CAMI lab did not even detect PCP in the Conrail brakeman's specimen in the accident that took place in Maryland.

The drug test conducted as a result of the metro north commuter rail accident in the Bronx on February 7 still hasn't been completed.

That being the background, I am wondering, since the lab qualities vary, how the Federal Government can guarantee the quality of the testing labs when testing large numbers ofsubjects. What do you intend

to do to see that we don't have a repetition and that we avoid what could be a calamitous situation? People have a right to know that these tests that are so important to them and to their lives will be conducted with the highest possible standards, degree of accuracy, and speed.

Ms. HORNER. Senator, I absolutely and entirely agree with you and as a result of precisely the kinds of problems you have just identified, HHS will by this summer issue certification standards for laboratories which will be of the most rigorous and exacting nature to make sure that no Federal employee is injured falsely because of poor work by a laboratory.

In addition, the guidelines that HHS has already put out for the handling of urine specimens are extremely rigorous and careful and, as a result of this kind of rigor, the Army, for instance, has been testing for 1 year with zero false positives. It can be done, but you are quite right that very high standards must be set, monitored, and adhered to for these labs.

Senator D'AMATO. Will you be involved in this personally? What will your role be?

Ms. HORNER. This would be HHS s responsibility.

Senator D'AMATO. Well, what role will you have as it relates to the employees? Do you have no role in this whatsoever?

Ms. HORNER. I have several roles. First of all, I have a role in terms of my own immediate employees, like any agency head. And, in addition, I have a role to support employee assistance programs, to support drug information programs, and to provide for the training of supervisors to work with their employees.

I have a role, therefore, in supervision and in prevention, and in terms of testing for my own agency.

Senator D'AMATO. So what you are saying is that simply as a result of your heading the agency, you have a responsibility to see to it that the lab testing, et cetera, is carried on with the highest possible degree of accuracy, but no statutory obligation to do more than that as it relates to all Federal Government employees and their rights?

Ms. HORNER. The Governmentwide responsibility for insuring Federal employees' rights in this area would rest with HHS because they have the personnel with the capability to ascertain what is a scientifically valid——

Senator D'AMATO. Lord protect us if HHS is going to be protecting their rights. I tell you you are opening up a Pandora's box and as much as I want to see testing and believe it is absolutely appropriate and essential vis-a vis certain sensitive positions where the lives and safety of people are at stake, we had betterbe rather careful in terms of rushing into this area. I can see an absolute debacle, and it doesn't take many cases of poor testing or delays to begin to create this problem, particularly as it relates to random testing. And I am wondering if we should do more about that. I am going to keep my remarks to a minimum, but I am concerned.

DRUG REHABILITATION PROGRAMS

Let me ask you about drug rehabilitation programs and assistance programs for your employees. We are kidding ourselves and our Nation's work force. We probably have an addiction rate, in terms of severe drug and alcohol addiction of well over 10 percent, right across the board. That would mean that in certain areas it would be higher and in certain areas it would be a little less.

In certain auto plants in the United States 30 to 35 percent of the employees have a drug and alcohol problem. I don t know if you have ever gotten any of those statistics. Over a 5-year period, about 5 percent of General Motors' hourly work force missed 93 days of work in a year, and were suffering from alcohol- or drug-related problems. All right? There are many that miss less than that that have a severe problem. That is the nature of this problen.

As we push on with legislation to undertake testing, et cetera, random testing in particular, I am delighted to hear you say that you are concerned about employees and prevention. I don't know how you are going to prevent, but we need intervention to help people before they have a crisis. That goes beyond the ability to give them counseling, therapy, et cetera. What kind of drug rehabilitation program do you have in effect and have you askedfor additional funds to provide the kind of drug rehabilitation program that it would appear is necessary if we are going to get into this business of testing? We want to provide more than just a throw them out kind of attitude which just breeds more problems. Do you have any thoughts on this?

Ms. HORNER. Yes, Senator; before we ever got into the issue, before we ever had an Executive order on drug testing, last summer, OPM, which yearly negotiates with health insurance carriers for Federal employees, required during this negotiation that every one of our 396 carriers nationally provide some opportunity for assistance through health insurance for drug and alcohol rehabilitation. For the first time, Blue Cross-Blue Shield, which covers 40 percent of our employees, this year offers in-patient care for the serious cases you were talking about.

So we now have available to Federal employees a choice for serious rehabilitation paid for by health insurance.

Second, we are encouraging agencies to beef up their employee assistance programs. In some cases, these have been not very heavily supported or used but we are working on that and we are engaged in serious evaluation of that.

Senator D'AMATO. May I at this point in time interrupt and say thank you for your candor. I want to commend you because at least you have acknowledged that in some instances, and probably too many, it is a plan that has not been implemented, it is something on a piece of paper. Without going into detail, I want to thank you for your candor. I appreciate it and please continue.

Ms. HORNER. At any rate, we have devised a model program, distributed it to the agencies, and we are in the process now of observing what they do with it, and we are very serious about this. We have put

together consortia by contract around the country of people who can offer employees counseling. Some agencies will do it with agency employees but that is unrealistic for small agencies. So we are getting counselors who are professionals to work with employees at the Government's expense where appropriate. So I think we are definitely moving forward in this area.

Senator D'AMATO. I would be very much interested in seeing that model program that you have developed, if I could. And I imagine so would the committee. I see that they have it here.

Mr. Chairman, I know we have more questions related to this and I want to thank the Chair for giving me this opportunity to put these questions into the record, if we might, in addition to those that I have posed today, and I thank Ms. Horner.

Senator DECONCINI. Without objection the record will remain open and the Senator's questions will be put in.

Senator D'AMATO. Thank you, Mr. Chairman.

Senator DECONCINI. We will ask Ms. Horner to respond to them.

Senator Mikulski.

Senator MIKULSKI. Thank you.

ACHIEVING A DRUG-FREE WORKPLACE

I would like to continue on the topic of drug testing.

You know that I am sympathetic to the Hoyer amendment that was offered in the House. At the same time, I am sympathetic to the achievement of a drug-free workplace as urged by the President within keeping of common sense and civil liberties. I have so:ne questions related to telescope of the Executive order and its implementations.

First a question about the appropriate occupations to test.

Let me ask you, Ms. Horner, could you identify for us all of the occupations in Federal service in which any employee if impaired by drugs would pose a direct risk to public safety?

Ms. HORNER. Senator, I don t think I can. There are too many variables in the working day of Federal employees, even those who have nominally identical occupations, for me as OPM Director with a small agency to have knowledge of what is going on in the details of life in the field for a customs agent in Alaska, for instance.

I don't think that it is appropriate for a central management agency to supplant the judgment of the statutorily responsible agency head who is responsible for the conduct of an agency's mission. So I think that the appropriate person to ask about which occupations are appropriate for testing is the Secretary of Transportation, for instance, about whether this air traffic controller but not that specialist should be tested.

Senator MIKULSKI. Are you saying that then we should go back to every Cabinet officer and then every subcabinet within that?

Ms. HORNER. I believe that every Cabinet officer and agency head should be responsible within the parameters of the Executive order and the guidelines for making the refined decisions.

Senator MIKULSKI. So you have furnished guidelines to say the Secretary of Transportation,the Federal Aviation Administration——

Ms. HORNER. What our guidelines do is to identify categories such as public health and safety or national security, and then within those categories some suggested considerations, such as whether a vehicle is transporting hazardous materials, for instance, in determining whether the driver of that vehicle should be tested.

Senator MIKULSKI. What was the policy, though, that you had in your mind when you were formulating your guidelines. I think there are two issues at stake here. One, of course, is national security, the types of issues, law enforcement, as Senator DeConcini raised in the issue on the FBI. The other, of course, is public safety, where we are familiar with the air traffic controller, aviation, and other transportation needs.

Ms. HORNER. Those are precisely the professionals that we did have in mind in writing the guidelines and that is why those are the areas our guidelines indicate should be susceptible to consideration for drug testing. But we are not ordering the Secretary of Transportation to test this person and not that person. What we are saying is you have to test where, in your judgment, public safety is a strong consideration, or national security.

Senator MIKULSKI. And those are the two prime guidelines that you have used.

Ms. HORNER. Public health and safety, national security, and law enforcement.

THE HOYER AMENDMENT

Senator MIKULSKI. Well, lets talk about the possibility, however, of facing the Hoyer amendment. What about a moratorium pending court decisions? Given the fact that the Federal District Court in Louisiana has enjoined both the Customs Department's random drug testing and the implementation of the Executive order, wouldn't it be more prudent to delay further expenditures until the Supreme Court sorts out some of the very difficult constitutional problems raised?

Ms. HORNER. Well, Senator, just last Friday we had a case in Alaska which was decided in the Government's favor, and there are a number of other cases. In order to have a serious look at the issue by the Supreme Court we need to have a Government which is taking an action. We can't have judgment based upon nonaction. Therefore, from a legal point of view I think it is sensible for us to proceed.

But beyond that, there is no reason for the Federal Government not to proceed in any act it construes to be legal untilsuch time as the courts definitively tell us it is not legal. Obviously we will abide by any restraint the courts impose upon us, but until such time as they do, it is our sense that it is entirely appropriate for us to abide by legitimate Presidential Executive order.

Senator MIKULSKI. But there is a great deal of concern that you could be issuing a very costly program, which I will talk about in a minute, when we are in the midst of a very serious constitutional test. I think

we can presume that the Louisiana case will proceed through the courts.

Ms. HORNER. Well, the question of cost, I think, needs to be considered in light of the fact that the pace of the implementation and the pace ofthe court decisions are such that it is unlikely that a great deal of money would be expended in advance of definitive legal decisions. But again, I would still assert that the problem of drug use in this society is such that when the President decides it has to be addressed, we should address it without reservation and without hesitation.

LIMITATIONS ON DRUG TESTING ACTIVITY

Senator MIKULSKI. Well, I am concerned that the scope of the Executive order is too broad Sensitive occupations can include, as we said, secretaries who may occasionally handle classified employee materials, who are older employees, peripherally connected to the safety activities. I know that many women particularly raised in old-fashioned ways find the whole idea of urinalysis both offensive and genuinely traumatic.

Under OPM guidelines no employee can refuse a drug test under any circumstances and avoid disciplinary actions. Don't you think that goes too far and don t you think that maybe there ought to be an age limitation on some of this activity?

Ms. HORNER. Senator, I appreciate the considerations of delicacy that you have just described.

Senator MIKULSKI. They are enormous.

Ms. HORNER. I acknowledge that and I would havetwo responses to that. One response is that I believe agency heads will exercise common sense in their decisionmaking in this regard and will recognize that in society we all have to engage in tradeoffs between two undesirable outcomes. I think we will see a lot of decisions that are extremely conservative in making that tradeoff.

In recognition that the greater the involvement into individual life that the Government is going to require, the greater the necessity, the perceived social necessity, must be, and that it would be wrong for a light or unserious necessity to cause us to require something which will be upsetting to people.

Senator MIKULSKI. Who really makes that decision? You say a Cabinet official. Lets take Secretary Dole, and she says all of those connected to aviation activity are to be drug tested. And then we move on down to a clerical person say only peripherally involved in actual air traffic control management.

Who would make that decision whether that clerical person, 62 years old, with a 100-percent perfect working record should be tested?

Ms. HORNER. I know. I have had this discussion myself, frankly. I hope and I believe that the members of the Cabinet and agency heads are sensitive enough to these kinds of human considerations that they will personally pay close attention to the selection of occupations for testing, and, of course, until we do it, we can't know. We have to do it before you can judge what we have done.

Senator MIKULSKI. But you see, nobody can say—I know Ms. Reagan said just say no to drugs, but a Federal employee just can t say no to drug testing. And my question is, who implements it on down the line?

Is that decisionmaking then delegated to front line supervisors? Could it then be used as a tool for punishing an employee for his or her behavior?

RIGHTS OF EMPLOYEES

Ms. HORNER. I understand what you are saying and we have obviously considered that possibility as we do when we have anything that involves the potential for adverse actions against Federal employees. And, in fact, there are still in place and available for full use all protections, all grievance opportunities, all appeal opportunities, and rights that Federal employees currently have for any kind of disciplinary action.

It is no different in this case. A Federal employee can use the full range of appeal if he or she feels it is an unfair labor practice all the way up to the Supreme Court, for redress of a grievance.

Senator MIKULSKI. Well, I am reading the guideline from you that Senator DeConcini has suggested. It says:

> When selecting testing designate positions, agencies should insure that the selection process not just result in arbitrary, capricious, or discriminatory selections. Agencies must be able to justify their selection of testing designated positions as neutral application of theselection criteria.

You refer to other sections:

> And agencies are absolutely prohibited from selecting positions for drug testing on the basis of a desire to test particular individual employees.

Ms. HORNER. That is correct, Senator. I wrote that language myself and I put it in there to assure that everybody engaged in this process from a management perspective knows what the rules are here.

Senator MIKULSKI. Yes; and that is your protection against, again, an abuse.

Ms. HORNER. An abuse.

Senator MIKULSKI. Now, how do you enforce that?

Ms. HORNER. Very easily.

Senator MIKULSKI. With all of this delegation?

Ms. HORNER. Very easily. An employee makes a complaint through the existing procedures available for any——

Senator MIKULSKI. But when would it start. Lets just say Mary Jones or John Jones is ordered to take a drug test. They are 63 years old. They are a GS–6 and they are involved in a clerical job that has no direct handson handling of national security material or which affects public safety. They are ordered to take a drug test. They feel that such a test is in violation of your regulation. Would they still have to take that drug test and then file the complaint?

Ms. HORNER. I am going to answer with reservation because I am not a lawyer, but it would seem to me——

Senator MIKULSKI. You can argue like one, Ms. Horner, you are doing all right.

Ms. HORNER. Senator, you give me good practice. Perhaps I should let my lawyer answer that.

Mr. HEWITT. They can immediately file a grievance, Senator.

Senator MIKULSKI. Here, Mary Jones has just been told to go to the women's room——

Ms. HORNER. Before the test, inother words, there would be no test as there would be a grievance filed.

Mr. HEWITT. But, if they refuse to take the test at that point and they file a grievance, a disciplinary action could be instituted but it doesn't have to be implementedand I believe that the appropriate supervisory tactic at that point would be to delay implementation of disciplinary action until such time as the grievance is seen through so that they can grieve that they are being unjustly imposed upon.

Ms. HORNER. And Senator, also, we will have a 60-day general notification and I think in most cases a 30-day specific notification to employees of which occupations are going to be tested so they would have 1 month right there at the minimum to say, hey, wait a minute.

Senator MIKULSKI. So you know that you would be in the category to be tested and then in would come the swat team, shall we say, and before they do, though, you would know you would be there and that you are in this group of employees to be tested.

Ms. HORNER. In the pool.

Senator MIKULSKI. You are in the pool. And then at that point you could also file a grievance if you felt you were being singled out and others were not.

Ms. HORNER. Yes.

Senator MIKULSKI. You could also, then, if you objected to your category being chosen during that 30 days, raise an objection?

Ms. HORNER. Yes; you could, Senator.

Senator MIKULSKI. So if you essentially say, "Hey, I am just not in this category. I do nothing that affects public safety or national security."

Ms. HORNER. Yes; you could.

Senator MIKULSKI. What about the clerical help in an agency's branch office?

Ms. HORNER. Yes.

Senator MIKULSKI. And then how do you intend to enforce this?

Ms. HORNER. Well, the employee, in effect, it by forcing the Government's legally required mechanisms of appeal into action and that goes on in every agency and an employee will use the available opportunities for appeal in an agency. Then there is the Merit Systems Protection Board, the EEOC, and the courts.

Senator MIKULSKI. Well, Ms. Horner, you have really argued your case very well. You are not a lawyer and neither am I. Maybe that is why we are doing so well. We are using English as a first language here.

I, again, have to refer back to the fact that these are very complicated constitutional as well as personal decisions. That is why I favor a

moratorium to allow drug testing that is going on, that has already been clearly established, to continue. As I understand the Hoyer amendment, it doesn't stop anything from continuing that is already occurring but says on anything since the Executive order that there be a moratorium until the courts have spoken.

I know you have put together a very complicated guideline, some of which is excellent. Obviously you have put thought into it. I am deeply concerned about the order's and its guidelines' implementation.

Mr. Chairman, I just have one other point I want to make and then if I could just one question on this geographic discrepancy.

ALCOHOL ABUSE

One of the things that emerges that Senator D'Amato has talked about is problem with alcohol abuse, that one of our serious problems in the workplace is not only drugs but for those involved with, again, public safety, alcohol is a substantial problem.

Do you have plans to move toward an alcohol-free workplace.

Ms. HORNER. Yes, Senator; in fact, we put into those quidelines a provision for applying the benefits available under the guidelines—and I am referring not to the drug testing area now—for application to alcohol also.

For instance, our supervisory training is for drugs and alcohol. Our insurance opportunities for rehabilitation are for drugs and alcohol and we do highlight the problem of alcohol which is a serious one both nationally, and, I imagine, in every workplace. We are hopeful of working on that problem also and determined to do so.

Senator MIKULSKI. Well, I think it is a national problem and I think we need to keep on working at that as well.

SPECIAL PAY RATES

Let me move on to this geographic issue. I was delighted that you gave the clerical workers in the Washington area a pay raise. However, I have constituents who live within commuting distance of both Washington and Baltimore and some might have relatives who work in the same agency. So let me give you this example and tell me then what you are going to do about it.

Take twin sisters who are living in Columbia, MD, both working for HCFA. One works down here at the Humphrey Building and one work at the building in Woodlawn. Both drive to work. And they are identical in their GS rating.

One gets a pay raise and the other didn't. Can you understand the inequity in that situation?

Ms. HORNER. Yes; and, in fact, that is the appropriate outcome. We raised the pay not as a nice thing to do for people, although I am happy that it is a nice thing that happens to people. We raised the pay because the agencies are having trouble either hiring or retaining clerical workers at particular grade levels and they provided substantial evidence to that effect. In the Washington metropolitan area, we have had very strong evidence of that difficulty.

We have not had evidence of that difficulty presented to us for areas where we didn't raise clerical pay. For instance, here in the Washington area we didn't raise clerical pay for GS–8 and GS–9 secretaries because the problem of recruitment and retention wasn't there or wasn't substantial enough to kick in the special pay raise. So the program is designed to pay more where we need to do that to get well qualified people to do the Government s work, but not to pay more where it isn't necessary to do that.

So I would suggest the other twin consider seeking a job in Washington where good clericals are in shorter supply.

Senator MIKULSKI. Well, what are you going to do when Dr. Roper comes and says all my GS–5's just quit and are trying to squeeze themselves into the Humphrey Building?

Ms. HORNER. Well, then, being a good proponent of the market, I would take a look at that and if the market requires it, raise pay for Dr. Roper's secretaries and they would flee the Humphrey Building and go back to Woodlawn.

Senator MIKULSKI. Well, we have joked about it a little bit but there is the issue of equity that people feel and that for many, the cost of living is the same in this metropolitan area. It could be Fairfax, it could be Arlington, or it could be southern Maryland I am sure Senators Warner and Trible are receiving the same kinds of complaints that I am and we think if you are going to be within a commuting distance then we think the salaries ought to reflect that within say a 50-mile radius.

Ms. HORNER. Well, Senator, we don't base the pay on what people need by their own definition to get along. We make them on what Government——

Senator MIKULSKI. The Federal employees would agree with you.

Ms. HORNER. I think that is obvious, yes. We base it on what we need to charge the taxpayers to get a certain job done and in this case that has been the basis of our action.

Senator MIKULSKI. Have you ever done this before and do you intend to do it in other areas of the country?

Ms. HORNER. We routinely do it in all areas of the country for all occupations where there are shortages. We have done it in Boston, San Francisco, Hawaii, New York, and some cities in Alaska. We do it for scientists and engineers. This is different because it has been the single largest pay increase that we have granted in terms of the cost to the taxpayer. That is what makes this dramatic. But we do this routinely.

As a matter of fact, we have a bill which we hope will pass this session which would allow us to double the amount of special pay available to cope with these kinds of situations.

Senator MIKULSKI. Well, in terms of the Baltimore, Washington, DC, Virginia area, I would really hope you would do a survey and see what is the impact on other agencies vis-a-vis what has happened here. And please understand I am not arguing for repealing the raise—I think it was appropriate to raise those salaries. But I think it is having a terrible effect in terms of morale and productivity, particularly when people in

the same department didn't receive it. People are doing the same functions. One is located in the District of Columbia and the other is in Gaithersburg or Woodlawn.

I would hope you would really consult with those agencies. And I know HHS, both the Social Security and HCFA are really being affected by the raise.

Senator DECONCINI. Thank you, Senator.

ADDITIONAL COMMITTEE QUESTIONS

Ms. Horner, thank you. Those are all the questions we have. Senator Domenici has some questions which I will submit and transmit, too. One of themis the standard question he has asked about budgeting for 2 years and how you would approach the pros and cons and some other questions dealing with some interest that he has.

Senator DECONCINI. Thank you very much.

Ms. HORNER. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

COMBINED FEDERAL CAMPAIGN

Senator DeConcini - Do you plan to issue new regulations to govern the 1988 Combined Federal Campaign?

Director Horner - Yes, we have been meeting with various interested parties in our efforts to reach a grand compromise on CFC regulations. Our approach has been that each party give a little to get a little. This approach shows signs of eventual success but, we need more time to resolve some of the more serious stumbling blocks, that is why I am not trying to get these new regulations in place for the 1987 campaign.

Some of the unresolved areas include the eligibility criteria to be applied to lobbying and advocacy groups; distribution of the undesignated monies (discussed in more detail below); and barring third parties (consultants) from assuming the role of the Principal Combined Fund Organization (PCFO).

I expect that we will issue new CFC regulations for public comment near the end of the year. This will allow us time to review the comments and issue final regulations early enough in the new year to run the 1988 campaign in an orderly fashion.

Senator DeConcini - Can you share your proposals for broadening the distribution of undesignated funds?

Director Horner - OPM is considering returning to a formula distribution of the undesignated monies. The actual numbers are still undecided but, something in the neighborhood of 82%, 7%, 7%, 4% seems most likely with 3% off the top for the PCFO. These figures would result in a decrease of 10% for United Way; substantial increases for the National Voluntary Health Agencies and National Service agencies; and a smaller increase for the International Service Agencies. The advantage to the three federations is that they would be the beneficiaries of a guaranteed share in the undesignated funds.

In the 1985 campaign, the one for which we have the most recent figures the federations received the following percents of the undesignated funds; NVHA 3.3%, NSA 0.3% and ISA 4.9%.

Senator DeConcini - If the PCFO did not manage the Campaign in accordance with the standards set forth in OPM regulations would you impose sanctions on the PCFO and how would these sanctions work?

Director Horner - OPM would require that the PCFO seek and consider the input from the other federations on the management of the campaign, such as, the training of the volunteers, the design and correctness of the brochure, and other events in the campaign that would be of legitimate concern to the federations.

If after an investigation by OPM we concluded that a federation had willfully failed to consult as required in the regulations we could impose sanctions including barring that federation from being the PCFO in that campaign for a period of time.

There is a serious problem with barring a federation because in many campaigns the United Way is the only group capable of performing the PCFO duties. We would have to work with the other federations at a national level to find ways that each of them could provide the needed support.

COMPETITIVE EXAMINATIONS

Senator DeConcini. Why have you delayed developing new tests? Is it because the tests are expensive? And, if so, how much do you expect it to cost to develop the necessary and court-mandated competitive exams?

Ms. Horner. We have not delayed developing new tests. Rather, we focused our limited resources on developing examinations for those jobs in which the most hires were expected to occur. The positions covered by the seven examinations developed since 1983, along with the nine examinations developed prior to the Luevano Consent Decree, account for approximately 55-60 percent of all external PAC hiring.

OPM spent nearly $4.5 million developing the seven competitive examinations that have been implemented for the "big fill" positions since the Luevano Consent Decree. The remaining positions present questions of both cost and of how best to proceed. The vast majority (75) of occupations for which we use Schedule B had less than 20 external hires each over the three-year period 1983-85. Only seven occupations had over 200 external hires during that same three-year period.

A precise estimate of the cost of developing competitive examinations for the remaining "small fill" positions cannot be made, but the figure could be many times the $4.5 million already spent because the cost of developing a competitive examination is not dependent solely on the number of people the agency expects to hire using the test. "Small fill" tests are frequently just as costly, if not more costly than "big fill" tests. In addition, the occupations for which we have yet to develop tests are hard to examine for with job-specific written tests because of the great differences in job requirements among and within these occupations. For many of these occupations, development of alternative job-specific competitive examinations might never be practicable due to the small number of hires in these jobs, an eventuality the Luevano Consent Decree itself had contemplated.

OPM has since concluded that it is not practicable to develop individual job-specific competitive examinations for all of these "small fill" occupations. Nevertheless, we continue to research ways of covering these occupations by competitive examination(s). We are, for example, reviewing the skills and abilities required for successful performance in various PAC occupations to assess the feasibility of combining several of them under the same examining procedures, and we are looking for a new approach to examining that will allow us to produce competitive exams that recognize the unique requirements of widely varied jobs but which also measure an individual's abilities as one part of the exam.

Senator DeConcini. Will you need additional money in your budget from Congress in order to comply with the court order?

Ms. Horner. If OPM must develop competitive exams for all jobs formerly covered by PACE, we will have to redirect our

resources to this effort. Money will be needed for extraordinary printing and travel costs, but the real limit is the finite number of employees we have with the professional expertise to develop exams.

It should also be noted that examining for PAC occupations accounts for only about 5 percent of OPM's overall examining responsibilities. OPM's test development staff is responsible for the examination development and administration for a wide variety of federal occupations, including contract and procurement specialists, accountants, internal revenue officers, social security examiners, air traffic controllers, clerical and secretarial occupations, and trades and crafts jobs.

Senator DeConcini. Don't you feel that open and competitive examinations, which afford the applicant the knowledge that he or she is competing on a level playing field with all other potential applicants, outweighs the presumed monetary cost-benefit ratio?

Ms. Horner. We do feel that fair and open examinations are critical to the Federal Government, both to ensure that all applicants have an equal chance and to ensure that the Government hires the best people available. It is also important to recognize that the examination process under the Schedule B authority has itself met this goal. Although OPM does not administer the examination centrally under Schedule B, the agencies themselves compare candidates on the basis of relative knowledge, skills, and abilities, and identify the best applicants for hiring.

Before we replace the Schedule B authority for any positions, we need to be sure that the new competitive examinations will actually accomplish these purposes. This will involve not only investment of resources but also resolution of basic policy concerns.

We believe that the two court decisions in combination -- Luevano and NTEU v. Horner -- require us to rethink our basic approach. On the one hand, a universal written test has been attacked as unfair and too narrow a means to judge the potential of applicants for Federal employment. On the other, the complete absence of a standard of measure from occupation to occupation has also been questioned. It is our intent to carefully analyze our approach to examining to resolve both of these seemingly contradictory concerns. The time spent in that analysis will help ensure that the resources devoted to test development are used most effectively.

In the meantime, we believe that the Schedule B authority will meet the twin goals of fair and open competition and quality staffing in the occupations for which we have yet to develop new tests.

Questions Submitted by Senator Barbara A. Mikulski

DRUG TESTING PROGRAM

Senator Mikulski. We have heard from a panel of experts on drug testing that the only means of preventing cheating during a drug test is direct observation. Yet, OPM and HHS guidelines provide for direct observation only when there is reason to believe that an employee may be cheating. Are you concerned that hard core drug

users may fall through the cracks? Our experts tell us that the heavy users are those most clever in concealing their problem and finding ways to beat the tests. Can you comment on that?

Mrs. Horner. While the data does show that regular drug users are intent upon denying a drug problem and in concealing this problem, the OPM and HHS guidelines provide for measures to be taken to ensure that the specimens are free from substitution or adulteration. The collection site is closely monitored: the test area is strictly controlled to ensure that clean samples have not been hidden for substitution; the carrying of bags, luggage, briefcases, or other containers into the test area is prohibited, as is the wearing of coats or jackets; and the testing official is stationed in the restroom to further monitor the setting for evidence of tampering and to examine the specimen after it is provided for abnormalities in color, temperature, or other indicia of tampering. Consequently, we believe that adequate steps will be taken to ensure the integrity of the specimens collected while protecting, to the maximum extent feasible, the privacy of each employee.

Senator Mikulski. Given the average age of the Federal population -- which distinguishes it from much younger enlisted personnel in the military -- isn't it fair to say that there is no fire in Federal service that warrants large expenditures for a program that the Supreme Court may strike down? And wouldn't it be better to focus scarce resources on monitoring employees directly involved in public safety -- to give the public maximum assurance that Federal workers who operate vehicles, equipment, and machinery are drug free?

Mrs. Horner. While the average age of the Federal employee population is greater than other segments of the workforce at large, the problem of drug abuse is a pervasive one in the general population. While there may not be a huge drug abuse problem in the Federal workforce, the public has a right to be protected from the consequences of the drug-impaired Federal workers inattention or errors regardless of the severity of the drug abuse problem across the Federal government.

As we have said, the President has instructed Federal agencies to establish programs for making the Federal workplace drug-free. There is simply no reason to wait for a Supreme Court ruling on the drug testing program and refrain from moving forward with the President's program. While we will most certainly abide by any restraint the courts impose on the program, no such restraints have yet been imposed against the government-wide program.

With regard to increased monitoring of employees directly involved in public safety occupations, this program and recent tragic accidents should spur an increase in scrutiny of employees holding those types of positions. Certainly, the provisions for random testing and for testing based upon reasonable suspicion of illegal drug use and as part of investigations of unsafe practices or accidents emphasize the importance of increased vigilance.

Senator Mikulski. How much do agencies currently spend to assist their employees with drug-related problems? How much more will agencies have to spend to implement the Employee Assistance Program set forth in OPM's guidelines?

Mrs. Horner. In fiscal year 1985, $11.8 million was spent by the Executive Branch for Employee Assistance Programs. In fiscal year 1986, that figure had risen to at least $15.5 million, with not all data yet available. We expect the expenditure to increase in the next fiscal year. We have not made an estimate of the additional expenditures required for agencies to implement the Employee Assistance Program aspects of the drug-free Federal workplace program. However, we believe that the programs already in existence will require little new expenditure beyond funds necessary to support additional use of the programs. It must be noted that this is the total figure for the provision of <u>all</u> counseling program functions including alcohol and drug abuse counseling.

OPM compiles fiscal year statistics from information provided by the Federal departments and agencies. In FY 86, 13, 167 employees were counseled through Employee Assistance Programs for alcohol abuse. Of these, 8, 187 employees were rehabilitated and returned to duty; 1,975 were not. Agencies reported that there were 3,005 employees still being counseled who had enrolled during FY 86.

In FY 86, Employee Assistance Programs handled 3,690 new employee drug abuse cases. These cases involve abuse of either legal or illegal drugs. Of these, 2,111 employees were rehabilitated and returned to duty; 706 were not. Agencies reported that there were 873 employees still being counseled who enrolled in FY 86.

The percentage of Federal civilian employees counseled for drug abuse during FY 86 was .16 of one percent, continuing a small, but steady, increase since FY 80. Agencies range in percentages from 0% to .89%.

Senator Mikulski. If the Administration is serious about helping employees with serious drug abuse problems, why did you settle on a regulation that requires agencies to remove an employee who tests positive on a second urinalysis? Is is realistic to assume that someone with a serious problem can become fully rehabilitated in the short-run? Are you relying on any particular data on recovery during drug rehabilitation or is this simply a broad brush stroke policy?

We heard recently from the Vice President for Administration at GTE Corporation, Mr. William Kaschub, on that corporation's Employee Assistance Program. GTE's paramount concern is the investment they've made in training their workforce and they take every possible step to assist the employee before terminating his or her employment. Doesn't the taxpayer have a similar investment in a Federal employee? Doesn't your quick justice policy shortchange that investment?

Wouldn't it be better to get some Employee Assistance Programs up and running in order to test their effectiveness before launching a drug testing program that threatens employees' jobs?

Mrs. Horner. The Executive Order requires that agencies remove employees who test positive for illegal drugs on a second agency-administered urinalysis. We anticipate that while the employee is participating in a rehabilitation or treatment program, the agency will not undertake a second urinalysis. The policy and tenor of the Executive Order make clear that a helping hand will be extended to employees who have drug problems. However, continued illegal drug use in the Federal workforce will not be tolerated. The Employee Assistance Programs serve to counsel and to refer employees with drug problems to an appropriate drug rehabilitation or treatment program.

The Federal government is quite concerned with the investment it has made in training its workforce as well as the adverse effects of illegal drug use upon a significant proportion of the national workforce resulting in billions of dollars of lost productivity. Balanced against the government's interest in protecting its investment is the supervening need to protect the public health and safety and the national security. We believe that, when the balance must be struck, the government's interest in protecting the public health and safety and the national security is paramount. We also believe that a drug-free workplace is a better protection for the taxpayers' investment in the long run.

Each agency is required by law to have some type of program for employee counseling. While many of these programs have proven to be very effective, agencies are being encouraged pursuant to the Executive Order to strengthen their Employee Assistance Programs. In addition, a model Employee Assistance Program has been devised and distributed to the agencies as an attachment to the OPM guidelines. Thus, we believe that the strengthened existing Employee Assistance Programs will be equal to the task of helping employees with drug abuse problems, as they have demonstrated in the past.

Senator Mikulski. We understand that the Defense Department's testing program now operates almost exclusively in-house at a cost of $18.5 million a year. How much do you estimate implementation of the President's E.O. will cost the Federal government? Does this estimate reflect actual cost experience using the kind of tests used by DOD, i.e., the E.M.I.T. and gas chromatography/mass spectrometry confirmatory tests required under the HHS guidelines? If not, why not?

We understand that most agencies will probably contract-out to private firms to conduct that actual drug screening (otherwise agencies would have to rely on line-

managers for this odious task). Can you confirm this impression, and if so, can you describe the kinds of quality control safeguards OPM will take to ensure that every agency drug testing program adheres to the HHS guidelines? How many OPM personnel will be required for this type of oversight operation?

Mrs. Horner. It is difficult to predict how much the contractor laboratories will charge for the tests given possible increased demand. However, HHS has estimated that the tests will have an average combined cost of $20 per specimen. That average cost is based on the assumption that only some small percentage of initial tests will be positive, thus necessitating the use of the more expensive confirming test. The Department of Transportation estimates that it will be able to contract for the initial screening and the GC/MS testing combined at an average cost of $25 per specimen. The Department of Transportation is currently proceeding to contract for these laboratory services. These estimates are based upon cost experience of the Department of Defense and information obtained from the potential bidders for these contracts.

Your understanding that agencies will contract for laboratory services is correct. The HHS guidelines include sample contract specifications for agencies to use in the contracting process. The Department of Health and Human Services will, starting sometime this summer, begin certifying private laboratories as having the necessary safeguards and technological capabilities to accurately perform the analyses called for in the HHS guidelines. Agencies will, under the HHS guidelines, be able to contract only with certified laboratories. The HHS laboratory certification process and the sophisticated quality control mechanisms agencies are required to use under the HHS guidelines will ensure the accuracy of the testing. As HHS, rather than OPM, developed the guidelines governing the guidelines which control the scientific and technical aspects of drug testing, OPM will not undertake oversight of agency adherence to those guidelines.

PAY RAISE AND PRESIDENT'S BUDGET

Senator Mikulski. How can you justify a budget that continues the pattern of sharply eroding Federal workers' purchasing power?

Ms. Horner. As you know, the President's budget proposed a 2 percent pay increase in January 1988. At the time the budget was prepared, this figure was judged as the maximum amount the budget could bear -- given existing economic conditions and the need to reduce the Federal deficit. The President will make his final General Schedule pay increase decision under the statutory pay comparability process after receiving reports from his Pay Agent and the independent Advisory Committee on Federal Pay in August.

Senator Mikulski. Haven't Federal employees contributed more than their fair share in the name of deficit reduction?

Ms. Horner. The President has asked all Americans to share in the sacrifices needed to reduce the Federal deficit. Federal employees appropriately have been called upon to share this burden. Nevertheless, we have made considerable efforts to manage the impact on employees and to maintain a motivated, productive work force. We have and will continue to judiciously exercise our special pay rate authority for occupations and locations with serious staffing difficulties. I should point out that this special rate authority, as well as overall flexibility in pay setting, would be greatly enhanced under the provisions of the Civil Service Simplification Act proposed by the Administration.

CLERICAL PAY RAISES

Senator Mikulski. With regard to the special rates approved for certain clerical positions in the Washington area, what was the process you used to determine which geographical regions and pay grades should receive these raises?

Ms. Horner. As a result of many agencies requesting special rates for clerical employees in Washington, we designated the Office of the Secretary of Defense (OSD) as the lead agency to conduct a study of recruiting and retention problems in this area. DoD convened a task-force of the 16 largest Federal employers and all other agencies were notified of the task force's activities and were invited to join in the request for special rates. The task force concluded that special rates for grades GS-2 through 7 positions requiring typing, stenography,

or data transcribing skills were justified in the Washington, D.C., Metropolitian Statistical Area (MSA). The Department of Navy then requested that the special rates be authorized for a facility at Dahlgren, Virginia based on a unique situation in which employees regularly and routinely work at a duty location within the MSA (White Oak, Maryland) and in Dahlgren. No other agencies made a similar request.

Senator Mikulski. What is the legislative authority you have to give these raises?

Ms Horner. Title 5, United States Code, section 5303.

Senator Mikulski. Has OPM or the Federal Government ever given raises in this fashion before? (If so, were the criteria for the earlier decisions the same one you used this time?)

Ms Horner. OPM has approved special salary rates for clerical positions in several locations including Los Angeles, San Francisco, Boston, New York, and some Alaska cities under the same legal authority and using the same criteria as used in the Washington case. The exact occupational and grade coverage of the special rate authorizations, as well as the pay rates, vary based on local labor market situations. The special rates authority is not limited to clerical positions. Special rates have also been authorized by OPM for certain engineering, medical and other job categories.

Senator Mikulski. Can you tell me what cost of living difference there is for two secretaries, both of whom live in Columbia, Maryland, and one works for Social Security in Washington and the other who works for Social Security in Baltimore?

Ms. Horner. Differences in the cost of living are not a factor OPM may consider. Under the current statute, we may only consider staffing problems caused by higher private sector pay.

Senator Mikulski. Why don't you extend the raise to these other areas of the Washington and Baltimore regions as well to guarantee that there's real equity and fairness in this clerical pay raise?

Ms. Horner. Equity and fairness are understandable concerns. However, under the statute, OPM cannot arbitrarily extend the special salary rates to locations beyond the Washington, D.C., MSA without evidence that there are staffing problems caused by higher private sector pay in those locations. To date, we have received no requests from agencies that special salary rates be established in the areas surrounding the Washington MSA and we are aware of no agency effort to collect the staffing data needed to support such a request.

NEW RETIREMENT SYSTEM

SENATOR MIKULSKI: Mrs. Horner how extensively have you tested your materials on employees at all levels and at agencies large and small to determine how employees will fare with the tools you've developed to assist them?

MS. HORNER: The staff used to develop the training materials for the FERS was comprised of professional trainers from both the public and private sector who have vast experience in developing training programs. The very positive feedback received during our recent one-week seminar conducted to "train-the-trainers" reaffirmed our confidence in the educational program developed for federal employees.

SENATOR MIKULSKI: How did you arrive at the determination that 4000 trained personnel would be enough to do the job? Do you have a contingency plan for getting more people on line if GAO is right and you are wrong about the number of personnel needed?

MS. HORNER: Our estimate of the number of decision advisors that would be needed during the open season was based on estimates of the number of employees who would transfer to the new retirement system, 40 percent or 800,000, and the approach we are taking to assist employees in making informed transfer decisions. Our informational materials are designed to help employees match their individual characteristics with the characteristics of the two retirement systems. The systems are very different,

and once the essential differences are understood, the choice between the two systems becomes fairly clear cut. This approach has been validated in the prototype training we have conducted and minimizes the need to analyze the effect of detailed benefit provisions or to perform benefit estimates -- the activities which are most likely to entail the assistance of an agency advisor.

While we communicated a "rule of thumb" that one agency advisor would be needed for each 500 employees, we also asked agencies to take factors such as the dispersal and demographics of their workforce into account when they estimated the number of advisors to be trained. Based on agency responses to our surveys and the responses to scheduled training courses, we now estimate that more than 10,000 advisors will be trained. While the capacity exists to double this number in a matter of weeks, we believe this number will be more than adequate, given the design of our materials. We are monitoring this situation very closely.

SENATOR MIKULSKI: GAO also commented that you have to involve the management chain in the educational process to make the FERS information dissemination and guidance process work. Can you tell us what role you expect line mangagement to play in this process?

MS. HORNER: Our program assumes that line managers will play an active role in ensuring that FERS informational materials are distributed in a timely manner and that employees are provided ample opportunity to discuss their concerns with FERS decision advisors.

SENATOR MIKULSKI: Private services to assist employees have sprung up all over the country. Both agencies and individuals have hired private consultants to undertake FERS training and counseling. In your opinion, will most employees benefit from purchasing these services? If not, should the typical employee have confidence that OPM materials will meet his or her needs? Doesn't the fact that employees have already experienced delays in receiving materials and that Open Season materials will not come out before June undermine their confidence in OPM's performance?

MS. HORNER: There has always been a rather large industry which provides financial and retirement planning. Some of these firms specialized in Federal retirement even before FERS was created. We recognized that some individuals and agencies will seek private firms' assistance and we neither endorse nor oppose their doing so. OPM has not evaluated and does not plan to evaluate the accuracy or effectiveness of FERS training and materials delivered by private sector firms. Our resources have been devoted exclusively to the development of our own training and materials.

We do believe, however, that agencies and individuals are paying for a service that they will soon be receiving from OPM at a nominal charge. OPM's implementation of FERS is proceeding rapidly and well. We are confident that we will be able to supply ample information and assistance for the upcoming transfer period, and that these will be sufficient for employees to make timely and informed decisions.

SENATOR MIKULSKI: How much have agencies paid to private outfits and do you expect agencies to pay private contractors for FERS assistance? Is OPM monitoring the quality of this assistance? How much do you suppose Federal employees will shell out for private assistance?

MS. HORNER: We have no means of determining the amounts agencies have paid to private sector firms for FERS assistance. We have made every effort to keep agencies informed of our training and informational plans and feel that OPM material should meet their needs. We have not evaluated and do not plan to evaluate the prices, accuracy or effectiveness of FERS training and

materials delivered by private sector firms. Our resources have been devoted exclusively to the development of our own training and materials.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

DRUG-FREE FEDERAL WORKPLACE

Senator Domenici. What drug testing is being undertaken at present in the Federal government? What drug testing programs were in existence at the time the President's Executive Order was issued (September 15, 1986)?

Mrs. Horner. The Department of the Army, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Transportation have programs in place to test some of their employees for illegal drug use. These programs were in existence prior to the issuance of the Executive Order.

Senator Domenici. What Executive agencies have developed plans to achieve a drug-free Federal workplace under the President's September, 1986, Executive Order? Have any of those plans been implemented? By what date do you expect all Executive agencies to have established programs in accordance with the Executive Order?

Mrs. Horner. The Department of Transportation has developed its drug-free Federal workplace plan for implementation of the Executive Order. The Department of Defense and the the military departments are amending their pre-existing programs so that they conform to the Executive Order. None of those plans have been implemented yet. The Veterans Administration has issued its 60-day advance notice of testing but has not yet begun implementation. No other Executive Branch agency has yet finished the development of its plan. Under section 6(b) of the Executive Order, the Department of Justice has responsibility for consulting with each agency on the implementation of the Order. The Executive Order does not establish any coordinative role for OPM. However, OPM has been providing technical advice and assistance to agencies as they develop their programs. The Department of Justice is likely to have more information on the efforts of the agencies in establishing their programs.

Senator Domenici. The President's Executive Order to achieve a drug-free Federal workplace allows the head of each Executive agency to determine which employees are designated for testing, the extent to which employees are tested, and the criteria for such testing. I agree that the head of each agency is best able to make recommendations along these lines, given his or her knowledge of the agency's mission and its employees' duties. However, what assurance is provided that there is some consistency among the drug testing programs each agency establishes, or do you see no need for such consistency?

Mrs. Horner. Under section 6(b) of the Executive Order, the Department of Justice has responsibility for consulting with each agency on the implementation of the Order. I believe that the Department will monitor the programs being established by the agencies and will attempt to ensure consistency.

Senator Domenici. I note that the Executive Order allows the head of each Executive agency to determine the extent to which employees in sensitive positions are tested to base that decision, in part, on the "efficient use of agency resources." Is this intended to allow an agency to authorize but not implement drug testing if costs are a consideration?

Mrs. Horner. The Executive Order notes that there are several factors that agency heads should take into consideration when determining the extent of drug testing in his or her agency. The "efficient use of agency resources" is one of several very important factors to be considered. Thus, costs may form a part of an agency head's determination on the extent of testing. Each agency head should weigh the cost factor with the "nature of the agency mission and its employees' duties" and "the danger to the public health and safety or national security that could result from the

failure of an employee adequately to discharge his or her position" in determining the scope of the testing program.

Senator Domenici. What is the cost to the Federal government of drug testing (i.e., cost per test and estimated number of workers to be tested)? Are those costs included in the President's fiscal year 1988 budget?

Mrs. Horner. It is difficult to predict how much the contractor laboratories will charge for the tests given possible increased demand. However, HHS has estimated that the tests will have an average combined cost of $20 per specimen. That average cost is based on the assumption that only some small percentage of initial tests will be positive, thus necessitating the use of the more expensive confirming test. The Department of Transportation estimates that it will be able to contract for the initial screening and the GC/MS testing combined at an average cost of $25 per specimen. The Department of Transportation is currently proceeding to contract for these laboratory services. These estimates are based upon cost experience of the Department of Defense and information obtained from the potential bidders for these contracts. It is difficult to estimate how many Federal employees will be tested under the program because each agency head is responsible for designating which sensitive employees in his or her agency will be subject to random testing. The outer limit of the pool of sensitive positions government-wide is approximately 1.1 million employees. As I have stated on a number of ocassions, the actual number of employees who will be tested on a random basis will be substantially smaller than that.

The cost of this testing is not included as a separate item in the President's fiscal year 1988 budget. The funds to operate the program will come out of each agency's salary and expense appropriation.

Senator Domenici. What is the cost to the Federal government of the Employee Assistance Programs and supervisory training required of each agency?

Mrs. Horner. In fiscal year 1985, $11.8 million was spent by the Executive Branch for these programs. In fiscal year 1986, that figure had risen to $15.5 million. It must be noted that this is the total figure for the provision of all counseling program functions including alcohol and drug abuse counseling. There has been no estimate made of the cost of the supervisory training required under the Executive Order. It will be up to each agency to provide that training. OPM has developed a training course that it will offer and has devised training materials that it will provide to agencies for their use.

Senator Domenici. The Executive Order states that "[t]he Attorney General shall render legal advice regarding the implementation of this Order and shall be consulted with regard to all guidelines, regulations, and policies proposed to be adopted pursuant to this Order." Does this also mean that the Attorney General may disapprove or approve the drug testing programs established by each Executive agency? If not, is anyone in the Executive Branch reviewing the program each agency establishes prior to the implementation of drug testing procedures?

Mrs. Horner. As you have noted, the Executive Order states that the Attorney General will be consulted concerning all guidelines, regulations, and policies proposed to be adopted under the Executive Order. I anticipate that this consultation will constitute a central review of the drug-free workplace programs proposed by each agency. By requiring consultation with the Attorney General when the programs are still in the proposal stage, the agencies will be able to make any necessary changes to their plans before they are implemented.

Senator Domenici. Do you feel that the Executive Order maintains a proper balance between the need to guarantee the public's safety and the Federal worker's individual rights?

Mrs. Horner. Yes, I believe that the Executive Order balances the rights of the employee with the substantial public interest in having a safe and secure Federal workplace. All existing rights afforded Federal employees under thge Civil Service Reform Act remain unchanged by the Executive Order.

Senator Domenici. What is our goal relating to the drug testing of Federal workers? If our goal is to ensure a drug-free workplace, don't we want to establish a mandatory testing program which covers all Federal workers?

Mrs. Horner. The ultimate goal of the drug-free Federal workplace initiative is to have just that, a drug-free workplace. However, the achievement of that goal includes a program of testing those employees holding positions in which the public health and safety or the national security is at risk. Those positions are the ones that every citizen of this country has a right to expect will be discharged without the impediment of drugs.

Senator Domenici. If we are concerned that illegal drug use by Federal workers may threaten our public safety, health and national security -- a legitimate concern in my view -- should'nt we be equally concerned about alcohol abuse?

Mrs. Horner. We should be, and we are, as concerned with alcohol abuse as we are with drug abuse. This initiative is limited to illegal drug use only with regard to the testing program. The rehabilitative components of the program will continue to be available to employees who are abusing alcohol. We have included training for supervisors on alcohol abuse in the supervisory training course.

Senator Domenici. OPM's guidelines to agencies on implementation of the Executive Order allows an agency head, at his or her discretion, to do random testing or mandatory testing of all employees in testing designated positions. Why is this alternative to random testing provided?

Mrs. Horner. The OPM guidelines allow agency heads to test all employees in testing designated positions or to test employees in positions designated for testing on a random sample basis. This alternative was provided so that agencies with a small number of testing designated positions could choose to pursue the testing program without resort to a random sample testing methodology. It was felt that this alternative procedure would, in those situations, be more cost effective than random sample testing.

BIENNIAL BUDGET CYCLE

Senator Domenici: Would your agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

Ms. Horner: The Administration is currently reviewing several proposals for improving the Government's budget process, including options for multi-year budgeting in those accounts other than the National Defense area. Therefore, I cannot comment on an overall Governmentwide position at this time other than to say that biennial budgeting would seem to have substantial advantage for a number of accounts.

With respect to OPM, I feel we could accommodate a change to biennial budgeting with little or no difficulty. The two appropriations for our entitlement programs are sensitive to economic and other assumptions, such as increases in the cost of living and in medical care costs, but that would not preclude us from making the best estimates we could from the data available to us at the time the budget was required. Overall, I think a change to biennial budgeting would be advantageous to OPM.

Senator Domenici: Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Ms. Horner: Because our entitlement programs make up the largest amount of our request and since they are mandated by law, over 99% of OPM's request could be said to be repetitious of the previous year's submission.

Senator Demenici: What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

Ms. Horner: I believe the only difficulty we would encounter in preparing a two-year budget would be in our entitlement areas where we rely on economic forecasts for determining the amount requested to be appropriated. I assume that there would still be a supplemental process and to the extent we found our forecasts to deviate from actual, the difference could be requested in a supplemental.

Senator Demenici: Would you expect to realize any budget savings if you could plan your agency budget on a two-year basis? If so could you estimate how much?

Ms. Horner: I do not believe we would save any resources by moving to a two-year basis. I do believe that it would free up some valuable time that could be spent productivity in other areas.

Senator Domenici: If you oppose the biennial budget concept, please give this subcommittee your reasons why?

Ms. Horner: I do not oppose the concept as it relates to OPM.

OPM FY 1988 SALARIES AND EXPENSES REQUEST

Senator Domenici: I note in your budget justification that your Salaries and Expenses workload indicators reflect no increases in your estimated Fiscal Year 1988 workload above the Fiscal Year 1987 program, with the exception of an increase of one in "Executive Exchange Nominees Accepted for Placement." I note that there were increases in all but two of these workload entries between Fiscal Years 1986 and 1987. Given this, do you believe you are showing a realistic workload estimate for Fiscal Year 1988, e.g., there will be no increase in applications processed for Federal employment or employment inquiries answered?

Ms. Horner: We do expect some variation in our workload production from year to year. However, we do not see any major trends emerging and since we have requested essentially the same budget for these functions in FY 88 as our FY 87 program, we presented the same workload figures as well.

Senator Domenici: Your justification for your salaries and expenses appropriation reflects decreases of $70,000 in Career Entry Staffing Services, $225,000 in Personnel Systems and Oversight, $46,000 in Administrative Services, and $12,000 in ADP Services due to greater reliance on the use of the private sector.

Is this net savings? What is the cost of contracting out for these services and where are those costs reflected in your budget?

Mr. Horner: The savings related to our A-76 activities are net savings. They are based on estimates from OMB of what savings are realized once an A-76 study is performed. They do not assume that the work will have to be performed by a contractor, only that the function will be performed at less cost once it has been competed through the A-76 process.

Senator Domenici: You reflect decreases in Fiscal Year 1988 due to "Cross Servicing" the payroll function onto the

General Services Administration's System. Would you please explain what this means?

Ms. Horner: Because we are a relatively small agency we felt savings could be obtained by contracting with a larger agency to perform our payroll processing. GSA currently performs this task for other agencies in a satisfactory manner and at a reasonable price.

However, since we entered into an agreement GSA has experienced trouble in preparing their system for the new retirement system requirements. Therefore, they will be unable to service OPM until next year. We are currently studying alternatives, but it appears for now that we will maintain our current payroll system through FY 88.

OFFICE OF GOVERNMENT ETHICS

Senator Domenici. You are requesting an increase of $300,000 and 7 FTE's for the Office of Government Ethics to educate Federal employees on the Ethics in Government Act and increase the frequency of audits of executive agency ethics programs. Why is there a need for such an enhancement? How much of the requested increase is for education and how much is for audits?

Ms. Horner. By design, the Federal ethics program is decentralized. Every executive branch agency has the ultimate responsibility to ensure compliance with applicable ethical laws and regulations. The Office of Government Ethics (OGE) was established to provide overall direction of executive branch policies relating to conflicts of interest on the part of officers and employees of any executive agency. One of OGE's primary responsibilities is the monitoring and assessment of individual agency ethics programs. Given the decentralized nature of the Federal ethics program, success in this area is achieved only by frequent detailed audits of the agency ethics programs and ongoing, close contact between OGE and the agency ethics official. More frequent and more detailed audits will permit OGE to provide more effective overall direction of its statutory responsibilities.

OGE has promised congressional committees that it would audit all agencies' ethics programs at least once every three years. As OGE's responsibilities have increased and its complement of FTE's has remained constant at 23, the additional work has been performed at the expense of overseeing agency ethics programs by decreasing audit coverage of the agencies.

Currently, OGE is struggling to maintain an audit schedule that covers the major departments and agencies at least once every five years. By necessity, the audits are both less frequent and less detailed. Many of the smaller agencies have been audited only once since the inception of the monitoring program.

Unfortunately, given our present FTE level, we foresee further decreases in our audit coverage as we take steps to implement the new confidential reporting system. By late summer, our regulations implementing the confidential system will be in place. This system will require all executive branch departments and agencies to submit their regulations dealing with the confidential system to us for review and approval. This process will consume a significant part of our present manpower. The new confidential system will also require a significant amount of training of individuals in the ethics community.

Most executive branch departments and agencies are keenly aware of the importance of training to prevent conflicts of interest. This increase in awareness has led to an inundation of requests to conduct ethics training of individuals in the ethics community, to help agencies develop training courses, and to provide them with ethics pamphlets, booklets, films and other training materials. These projects require significant funds and manpower to implement. Training and education are now accomplished by utilizing both attorneys and management analysts with no position solely devoted to the training function.

An increase in our appropriation of seven FTE's and $300,000 will allow us to increase our professional staff by six and our support staff by one. Our present plans are to devote three positions ($103,000) to the audit function and two positions ($122,000) to the training program. The remaining enhancement of $75,000 is needed to fund a Deputy Director's position created in April of 1987.

Senator Domenici. Your justification reflects that the increase for the Office of Ethics is offset by a decrease of $75,000 for one-time expenditures. What were these expenditures?

Ms. Horner. The decrease in FY 1988 resources is the result of one-time expenditures in FY 1987 for goods and services directly related to governmentwide responsibilities of the Office of Government Ethics to train agencies about Federal ethics laws and regulations, and to ensure their compliance with current Federal ethics policies and guidelines through on-site audits.

A film, produced for $50,000, will be used to enhance the governmentwide ethics training program. It will explain Federal ethics laws and regulations and provide both agencies and employees with a basic understanding of how these rules apply to them. Also, the film will simplify and standardize information and explanations about Federal ethics regulations, laws, policies, and guidelines.

Automated data processing equipment purchased for approximately $25,000 will be used to improve information storage and data retrieval gathered from audits of agency ethics programs.

LEGISLATIVE PROPOSALS

SENATOR DOMENICI: You are proposing that both the Postal Service and District of Columbia government begin to pay the full cost of their retirement and health benefits. What are the savings from elimination of these subsidies?

Have you discussed these proposals with the Postal Service and the District of Columbia? Are they receptive to these proposals and, if not, what objections are they raising?

HORNER: The savings resulting from eliminating the subsidies are as follows:

(in millions)

	1988	1989	1990	1991	1992
FEHB - Postal Svc *	414	475	533	618	692
D.C. Gov't	9	10	11	12	13
	423	485	544	630	705
CSRS - Postal Svc *	11	153	284	334	450
D.C. Gov't	10	23	35	46	57
	21	176	319	380	507
TOTAL	444	661	863	1,010	1,212

* Postal Service contributions are treated as intra-governmental transfers in the unified budget. Our proposal would not result in government-wide savings unless the Postal Service sought to fund the additional contributions by raising postage rates.

Postal Service and D.C. Government officials were made aware of these proposals during the formulation of the President's FY 1988 Budget. Similar proposals were also included in our legislative program for FY 1987. We have had no direct conversations with the Postal Service or the D.C. Government on these matters.

Mr. DOMENICI. Would you please explain the major changes being proposed by the Civil Service Simplification Act in greater detail? In your view, what will be the impact of "merit pay" versus the current "within-grade step increase" system on Federal workers?

Ms. HORNER. The Civil Service Simplification Act proposes to build a personnel system around people, not paper. Major features include:

- Pay banding - Existing GS grade levels would be consolidated in appropriate pay bands similar to what has been done in the Navy Demonstration project.
- Simplified Classification - Greater emphasis would be placed on generic PD's for similar jobs. Similar occupations would be grouped into career paths which would, in turn, be banded into two or more classification levels (GS grades). Classification determinations may be made by managers with advice from personnelists, thereby making the process simpler, more job directed, management controlled, and faster.
- Pay-for-Performance - Agency CSSA plans would include performance appraisal systems that meet the requirements of 5 U.S.C. 43. Results of appraisals would be used as the basis for performance awards, and progression through the pay bands.
- Labor market sensitivity - There would be flexibility in establishing hiring rates to enable Federal employers to be more competitive with rates paid by non-Federal employers in given geographical areas.
- Budget neutral - The Bill provides that the President or his designee shall evaluate the operation of the Simplified Management System in each agency to ensure it is operating in a budget neutral manner.
- Special rates - CSSA would permit hiring employees who would be covered by a special rate range at a rate above the minimum of the special rate range. Bonuses, not used for special rate employees under the current system would be authorized under CSSA.
- Phased implementation - Agency participation in CSSA would be voluntary. Subject to OPM approval, CSSA provides for implementation, at agency discretion, for any component or location in the agency, or for any occupation or group of occupations within the agency, or for the entire agency.

The use of merit pay within the Navy Demonstration project has been successful. It has given managers greater flexibility to use the funds available and we believe this approach has contributed to improved retention of a high quality workforce at the labs. Clearly this is a primary objective of a performance-based system. Under CSSA or under an expansion of merit pay to the General Schedule, there would be no reduction in current spending levels.

NEW RETIREMENT SYSTEM

SENATOR DOMENICI: Federal employees hired on or after January 1, 1984, are automatically covered under the new retirement system enacted into law last year. Federal workers hired before that date are now facing a difficult choice as to whether to remain in the old Civil Service Retirement System or switch over to the new one.

What assistance and information is being provided to Federal workers across the country who are faced with this decision?

HORNER: Last September, we published a 21-page booklet that describes the new retirement system in some degree of detail and arranged for its distribution to all Federal employees.

We also produced a film on FERS which was available to all agencies. Both the booklet and video were professionally produced under contract, and both were very well received.

In addition, we estimate that we have done more than 250 briefings for about 30,000 employees across the U.S. This task has primarily been carried out through OPM's regional training structure. Since many of the people attending our briefings were personnelists who then briefed employees in their agencies, the number of people who have received briefings is even larger.

For the coming transfer period we have prepared and will distribute to each employee a Transfer Handbook, which contains detailed and comprehensive information on factors to consider in choosing between the CSRS and FERS. We have also prepared a second video that deals with the transfer decision. In addition, we plan to train several thousand employees selected by their agencies to serve as FERS decision advisors. We plan to have our materials distributed and the cadre of advisors in place by early June.

SENATOR DOMENICI: You are proposing to revise the method of computing cost-of-living adjustments under the old Civil Service Retirement System to conform with the "CPI-minus-one" formula used in the new system.

Isn't your justification that this new formula is appropriate since it would conform to the formula under the new retirement system a bit unfair given the fact that there are many features of the new system which make a new COLA acceptable that do not apply to the Civil Service Retirement System?

HORNER: While it is true that both systems are fundamentally different, it is also true that the CSRS costs more to the Government, and in order to receive the same level of benefits, most FERS employees will have to contribute more towards their retirement. Applying the "CPI-minus-one" formula to the CSRS brings the cost of both systems roughly in line with each other and eliminates this differential treatment of employees.

SENATOR DOMENICI: The Administration is also proposing to repeal the provisions of both the old and new retirement systems which permit the lump-sum withdrawal of employees' contributions at retirement. Don't you believe the proposed changes, as well as the proposed COLA formula change in the Civil Service Retirement System, further complicate the situation for federal workers who now must decide between the two retirement systems?

HORNER: The proposals are designed to clarify, rather than complicate, the decision employees must make. The change in the CSRS COLA formula would essentially bring it in line with the FERS COLA formula. The elimination of the lump sum/alternative annuities provision is being proposed for both systems. Our intent is to enact reforms that provide comparable benefits prior to the CSRS to FERS conversion period.

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

DRUG TESTING

Senator D'Amato. At a March 26 hearing before the Transportation Appropriations Subcommittee, I questioned Deputy Secretary Burnley regarding random drug testing in the transportation industry. I have serious concerns regarding DOT's endorsement of this type of testing. Random testing legislation reported out of the Commerce Committee, by a vote of 19 to 1, raises similar concerns. What is OPM doing to address concerns about random testing? How will we pay for the increased legal and administrative work associated with legal appeals by Federal workers whose jobs are adversely impacted by positive drug test results? Is OPM asking for more funds for this purpose? Is OPM seeking to coordinate the efforts of separate Federal agencies as they seek to comply with the Executive Order (to assure cost savings, provide uniformity of treatment, and avoid duplication of efforts)?

Mrs. Horner. OPM has formed a Drug Testing Answer Group, which discusses pertinent issues relating to the drug-free Federal workplace initiative, such as interpretation of the OPM guidelines, and responds to questions from agencies and Federal employees regarding aspects of the program, including random testing. Additionally, OPM has established a hotline to help alleviate concerns of Federal employees about the drug testing program. OPM also provides speakers, upon request, who will address questions about the OPM guidelines and the implementation of the program.

Federal agencies will pay for the possible increase in administrative and legal work ocassioned by appeals brought by Federal employees whose jobs are adversely affected by positive drug test results with general salary and expense funds appropriated to each agency for the operation of that agency. Defending those appeals and doing the administrative work on the program are expenses of doing business. OPM is not asking for additional funds for either of those purposes. While OPM is providing technical assistance to agencies in fine-tuning their Employee Assistance Programs and educating and informing their employees, supervisors, and managers on drug abuse, OPM does not have a role to play in coordinating the efforts of the agencies as they seek to comply with the Executive Order. That role is shared by the Department of Justice through its responsibility under the Executive Order to consult with each agency on its program, the White House Drug Abuse Policy Office, and the National Drug Policy Board recently established by the President.

Senator D'Amato. The Federal Railroad Administration has decided to switch from the Civil Aeromedical Institute (CAMI) lab in Oklahoma City to the University of Utah for drug testing. There was a significant difference in the speed and precision of the tests conducted by the two labs (i.e., the CAMI lab did not detect PCP in the Conrail Brakeman's specimen). Drug tests conducted as a result of a Metro-North commuter rail accident in the Bronx on February 7 still have not been completed by CAMI. Since lab quality varies, how can the Federal government guarantee the quality of testing labs when testing large numbers of subjects?

Mrs. Horner. The Department of Health and Human Services guidelines contain a section on quality assurance and control. They require internal laboratory controls and proficiency testing and external agency-conducted quality control testing. Agencies and the contractor laboratories that perform the urinalyses will be required to follow the quality assurance guidelines set out by the Department of Health and Human Services. HHS believes that their quality control guidelines and their laboratory certification process will keep laboratory errors to an absolute minimum.

Senator D'Amato. Drug testing under certain circumstances may be needed to protect the public safety (e.g., testing of railroad and airline crews). However, we must be sensitive to issues of due process, employee harassment, and accuracy of tests. In addition, rehabilitation help must be available to employees with a drug or alcohol problem. Is OPM asking for more funds to provide drug rehabilitation programs? Is OPM evaluating Federal health plans to determine the extent of coverage for drug and alcohol treatment programs?

Mrs. Horner. Each agency head determines the amount of his or her agency's appropriation to be earmarked for Employee Assistance Programs. I have previously stated the amounts expended by the agencies in past fiscal years in response to a preceding question from Senator Mikulski. While it is anticipated that the amount expended on Employee Assistance Programs will increase in the next fiscal year, OPM is not asking for more funding for drug rehabilitation programs. Each agency will utilize its own appropriation to meet that need.

Employees with serious drug problems will be referred by their agency Employee Assistance Program to a rehabilitation or treatment program; the cost of such programs will be borne by the employee and his or her Federal health benefits carrier. Last year, OPM negotiated increased benefits for substance abuse care and treatment with many of the Federal health benefits carriers. OPM will continue to monitor, evaluate, and renegotiate, as necessary, the benefits afforded by the carriers.

Senator D'Amato. Railroad unions have signed voluntary agreements with rail carriers to use the Red Block program. Has OPM evaluated the success of voluntary union programs such as these?

Mrs. Horner. While OPM has not yet evaluated the Red Block program, we will monitor developments in drug abuse programs in both the private and public sectors for any valuable contributions they may provide to the drug-free Federal workplace initiative.

Senator D'Amato. OPM is directed, in cooperation with the Secretary of Health and Human Services, to mount an intensive drug awareness campaign throughout the Federal work force. [Executive Order, Section 6(a)(5)]. What is the status of this program? Where will the funding come from? What will be the projected cost? Are you working in conjunction with Federal employee groups?

Mrs. Horner. OPM is continuing to work with the Department of Health and Human Services on a coordinated drug awareness effort. To date, OPM has published, in conjunction with a number of Federal employee organizations, a poster to publicize our joint efforts to combat substance abuse and has established a hotline to answer Federal employees' concerns about drug abuse. The funding for this effort will come from OPM's general appropriation. No future cost estimates for this campaign have been prepared. The American Federation of Government Employees, the National Association of Government Employees, the National Federation of Federal Employees, the National Treasury Employees Union, the Senior Executives Association, the Federal Managers Association, and OPM produced the aforementioned poster announcing that they were "United Against Substance Abuse."

Senator D'Amato. Agencies shall refer an employee who is found to use illegal drugs to an Employee Assistance Program for treatment and rehabilitation. [Executive Order, Section 5(a)]. If an agency does not have established such a program, where will the funding come from? What will be the projected cost? Which agencies already have existing Employee Assistance Programs?

Mrs. Horner. I have previously outlined the costs for existing Employee Assistance Programs in response to an earlier question from Senator Mikulski. All Federal agencies are required to have employee counseling programs.

Senator D'Amato. Positive drug test results may be rebutted by other evidence that an employee has not used illegal drugs. [Executive Order, Section 5(f)]. What evidence will be deemed acceptable to refute a positive test result? And if an employee has a positive test result, what rights of appeal will there be and to whom will this appeal be directed?

Mrs. Horner. Employees will be afforded the opportunity to provide evidence of other explanations that could have led to a positive test result to the Medical Review Official. It is his or her responsibility, under the HHS guidelines, to review any and all medical records, including prescription information, and any other explanatory information provided by the employee in interpreting the test result. If he or she determines that the positive test result was based upon legal drug use, the positive test result will be treated as if negative.

If the Medical Review Official determines that the positive drug test result was based upon illegal drug use and not some other factor, and disciplinary action is taken against the employee the employee may contest that action and present his or her explanation to a third party adjudicator such and the Merit Systems Protection Board or an arbitrator.

Senator D'Amato. Records of uncomfirmed positive test results and negative test results are to be destroyed by the laboratory. [OPM Report, Section 4(f)(7)]. Will there be a requirement to furnish proof of the destruction of these results?

Mrs. Horner. There is no present requirement contained in the OPM guidelines or the HHS guidelines that contractor laboratories provide proof of destruction of negative and uncomfirmed positive results. The Department of Health and Human Services will monitor laboratory procedures through its laboratory certification process. If the Department determines that, through experience with the laboratories, that any revisions are necessary in its guidelines on this point, I am sure it will consider making them.

Senator D'Amato. The head of an agency may require an employee to undergo testing if there is a reasonable suspicion as to illegal drug use. [Executive Order, Section 3(c)(1)]. What has been the reaction of Federal employees and their representatives to the guidance statement you have issued? On what grounds will reasonable suspicion be based? What has been the reaction of Federal employee groups to the standards? Have specific guidelines on this matter been formulated?

Mrs. Horner. Many Federal employees and their representatives have reacted by calling or writing OPM with questions concerning the interpretation of various provisions in the guidelines and the Executive Order. At present, two lawsuits have been filed seeking an injunction against the implementation of the Executive Order. The first of these, National Treasury Employees Union v. Reagan, Civ. No. 86-4058 (E.D. La.), challenges the constitutionality of the drug testing program and wrongly asserts that OPM improperly issued its guidance without the advance notice and opportunity for comment required under the Administrative Procedure Act. The second suit raised the same issues but also sought to have the Department of Transportation's pre-existing drug testing program enjoined. National Association of Air Traffic Specialists v. Dole, et al., Civ. No. A87-073 (D. Alaska). The District Court in Alaska denied the request for injunctive relief on March 27, 1987.

The reasonable suspicion standard requires the existence of a belief that an employee is using illegal drugs which is drawn from specific facts and reasonable inferences. Information that an employee is using illegal drugs must be provided by a reliable and credible source. It is the responsibility of agency managers and supervisors to exercise due care in deciding whether sufficient information exists to warrant a reasonable suspicion of illegal drug use. FPM letter 792-16, section 3(c)(2), addresses reasonable suspicion testing and lists five bases for reasonable suspicion which are not exhaustive, but are illustrative. There may very well be additional circumstances which give rise to reasonable suspicion. In the supervisory training program being developed by OPM, there is extensive instruction on reasonable suspicion and how to determine from observation whether a reasonable suspicion of illegal drug use exists.

Senator D'Amato. Applicants for new positions to the agencies may be tested at the discretion of the hiring agency [Executive Order, Section 3(d)]. Have any steps been taken to make certain that this discretion is exercised in a reasonable and not arbitrary manner? Are you taking any steps to coordinate the efforts of the various agencies to implement the proposal?

Mrs. Horner. We believe that agency heads will exercise their discretion in a reasonable manner. As I mentioned previously, OPM does not play a formal role in coordinating the efforts of the agencies as they seek to comply with the Executive Order. That role is shared by the Department of Justice through its responsibility under the Executive Order to consult with each agency on its program, the White House Drug Abuse Policy Office, and the National Drug Policy Board recently established by the President. However, OPM offers technical advice to agencies on the implementation of the program. Formal responsibility for coordinating the program falls to the agencies named above.

Senator D'Amato. Testing procedures must allow individual privacy, unless the agency has reason to believe that an employee may alter or substitute a specimen. [Executive Order, Section 4(c)]. On what basis is the agency to determine that it has "a reason to believe" that an individual would tamper with a specimen? How will the agencies determine when circumstances warrant the actual observation of an individual during the testing procedure?

Mrs. Horner. As stated in section 4(g)(3) of the OPM guidelines, an employee may be required to provide a sample under observation if there is reason to believe that the employee may alter or substitute the urine specimen. For example, employers may wish to require observation when facts or circumstances suggest that the person to be tested: (a) is an illegal drug user; (b) is under the influence of drugs at the time of the test; (c) has previously been confirmed by the agency to be an illegal drug user; (d) is seen to have equipment or implements used to tamper with urine samples; or (e) has recently been determined to have tampered with a sample.

Senator D'Amato. In OPM's guideline report, it is stated that an agency must maintain the confidentiality of test results. However, drug abuse treatment records may be disclosed without the consent of the patient to qualified personnel for conducting scientific research, management audits, financial audits, etc. [OPM Report, Section 4(f)(2)(ii)]. How can you assure the confidentiality of records in areas such as the above where public access could realistically happen?

Mrs. Horner. The provision of the OPM guidelines that is cited is taken directly from the extant HHS regulations concerning protections to be afforded patient treatment records at 42 C.F.R. § 2.1, et seq. The pertinent portion of the OPM guidelines and the HHS regulations requires that treatment information provided to persons conducting scientific research, management audits, financial audits, or program evaluations will have personally identifying information removed from it. Thus, confidentiality is assured.

Senator D'Amato. How many and which laboratories will be utilized in the testing program? How will a determination be made as to the selection of the laboratory?

Mrs. Horner. While we are aware that the General Services Administration is assisting agencies, especially smaller agencies, in their procurement activities, it is the responsibility of each agency to contract for these services. Thus, it is not possible to predict how many laboratories will be certified for use in drug testing by the Department of Health and Human Services or how many of those certified laboratories will be utilized for testing by the agencies. The HHS guidelines include guidance and sample contract specifications for each agency to use in contracting for laboratory services. Agencies will use that guidance and those specifications in determining with which laboratory to contract for testing services.

Senator D'Amato. In OPM's guideline report, there is a listing of what criteria will be used to make a determination as to actual drug use. They include direct observation, criminal conviction, etc. However, it states that "other appropriate administrative determinations" are acceptable. [OPM Report, Section 5(a)]. What exactly would fit under this broad category?

Mrs. Horner. The OPM guidelines complement the Executive Order's reference to administrative inquiries and mean to include evidence of illegal drug use developed by the agency in the course of an agency inquiry into an employee's conduct and/or performance. For instance, an inquiry into whether reasonable suspicion of illegal drug use exists or an inquiry into the facts and circumstances surrounding an unsafe practice or accident.

FEDERAL ELECTION COMMISSION

STATEMENT OF HON. THOMAS J. JOSEFIAK, VICE CHAIRMAN AND CHAIRMAN OF THE FINANCE COMMITTEE

ACCOMPANIED BY:
SCOTT E. THOMAS, CHAIRMAN
JOHN WARREN McGARRY, COMMISSIONER AND VICE CHAIRMAN OF THE FINANCE COMMITTEE

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. Our next witness is Mr. Thomas Josefiak. Let me ask you to come on up. Because of the time restraints, we are going to take your testimony. We would ask that you summarize it for us. We may have a vote any minute, and we will let you go ahead. Please go ahead, Mr. Josefiak.

Mr. JOSEFIAK. Thank you, Mr. Chairman.

Mr. Chairman, Senator Mikulski, it is an honor and pleasure for me to be here. With me is the Chairman of the Federal Election Commission, Scott Thomas, and the Vice Chairman of the Finance Committee, Commissioner McGarry.

We also have the other Commissioners in the audience and we would be happy to answer any questions you may have after my statement.

Senator DECONCINI. Fine, would you like to introduce the other commissioners?

Mr. JOSEFIAK. Commissioner Aikens, Commissioner Elliott, and Commissioner McDonald.

Senator DECONCINI. Welcome.

SUMMARY OF STATEMENT

Mr. JOSEFIAK. Mr. Chairman, as you requested I will attempt to summarize my testimony and I know it will be inserted in the record as presented.

BUDGET OVERVIEW

Mr. Chairman, we are asking for a fiscal year 1988 budget appropriation of $14,174,000 and a staffing level of 258. Compared to our current fiscal year 1987 budget of $12.8 million and 245 full-time equivalent [FTE], the Commission is seeking an increase of $1,374,000 over last year's budget, an additional 10.7 percent, and a staff increase of 13 FTE or a 5.3-percent increase. With this budget, the Commission is confident it can meet three goals:

First, maintain its current level of services;

Second, meet the special demands of the 1988 Presidential election year, including the election to the House and Senate; and

Third, complete our recapture of 1986 election data not previously computerized.

Just to put it in perspective, $1,045,000 of the increase, or 76 percent is our estimate of what it will cost the Commission to maintain its current level of activity. Fixed cost, including rent, the 3-percent mandated salary increase, and the new retirement program account for $956,000 of the increase. The remaining $89,000 is the Commission's estimate of inflation costs for such items as phone, equipment rental, and supplies.

When you look at our budget request from this perspective, the Commission is really seeking an increase of $329,000 over its current operations. Of that figure, $260,000 would be to cover the anticipated increase in Commission activity due to the 1988 Presidential campaign. Specifically, $210,000 is to increase the staffing level by 12 FTE and $50,000 for our auditors travel. The remaining $69,000, including one FTE would be to complete the recapture of 1986 election data.

IMPACT OF 1988 PRESIDENTIAL ELECTION

My prepared testimony goes into greater detail as to the breakdown of resources attributable to the 1988 Presidential campaign. However, I think it is important to note that this will be the first Presidential publicly financed campaign where no incumbent President will seek re-election. As a result, the Commission anticipates as many as 18 to 20 candidates qualifying for matching funds. This compares to 11 in 1984 and 10 in 1980. The Commission feels that it needs the extra $260,000 to fulfill its responsibilities under the law. The Commission must certify the candidates as qualified to receive matching funds and provide for a speedy review of their matching fund submissions. We also have a responsibility of insuring that the candidates use those matching funds properly. At the same time, Mr. Chairman, we cannot neglect our oversight of the 1988 Senate and House races.

RECAPTURE OF 1986 DATA

The remaining $69,000 of the increased funding sought by the Commission would be to complete the recapture of the 1986 election data which was not computerized as the direct result of our Gramm-Rudman-Hollings cutbacks. Steps are being taken in fiscal year 1987 to capture some of this information, however, it will cost the Commission $203,000 in fiscal year 1988 to finish the project. The Commission views this outlay as an investment in public disclosure. When completed the public will have easy access to review campaign finance activity for every election cycle since the inception of the Commission.

We sincerely regret any inconvenience that the cutbacks in computerized services caused the public during the 1986 election cycle. On a more positive note, our computerized research services will be back to their full and complete level of usefulness for the 1988 political season.

GENERAL BUDGET CONSIDERATIONS

In addition to our requested increases in funding and staffing levels for activity unique to fiscal year 1988, we also feel completely justified in seeking funding for a base Commission level of 245 FTE in order to achieve our other goal of maintaining current services. In that vein, Mr. Chairman, I have included in my prepared testimony a brief description of agency operations and divisions in an attempt to justify that base.

It is also important to note that this base anticipates no change to current law. Any changes adopted by Congress should also consider the financial impact of the agency, if any, and provide for additional funding when necessary.

Finally, Mr. Chairman, the 1988 budget reflects our genuine effort to balance responsible budget restraint and our mandate under the Federal Election Campaign Act.

Our budget request is the result of negotiations with OMB over virtually every cost and calculation contained in our original and higher budget request of $14,332,500 and a staffing level of 261. But as the Commission approaches a particularly challenging year we are confident that with the proposed budget we can meet our responsibilities capably and efficiently.

SUPPLEMENTAL REQUEST

With regard to our fiscal year 1987 supplemental request, the good news is that the Commission has revised downward its estimate of additional funds and is now requesting $83,000. The original fiscal year 1987 supplemental request was $290,000, specifically to cover 50 percent of the 3-percent pay increase and all costs resulting from the new Federal Employees' Retirement System. It is not that the Commission doesn't need the $290,000 to cover these costs, however, the Commission feels that it can absorb all but $83,000 under its current fiscal year 1987 budget. The bad news is why. The Commission simply can't reach its authorized staffing level of 245 for the year. This is the result of three main factors. First, a very low staffing level at the beginning of fiscal year 1987, namely 230 FTE because of the hiring freeze instituted by the Gramm-Rudman-Hollings budget cuts.

Second, a delayed and reduced recruitment effort for new employees until after our fiscal year 1987 budget uncertainties were resolved in November 1986. You recall the extremes in the Commission's anticipated fiscal year 1987 budget figures, from a low of $10.2 million to a high of $12.8 million, which, by the way, we eventually received, and thank you for that.

Third, a higher than expected turnover rate among current employees. Our attrition rate is averaging approximately 20 percent. You can rest assured, Mr. Chairman, that we are attempting to correct the problem, but even with our estimate of having on board 251 employees by the end of the fiscal year, our estimate of the cumulative FTE level for fiscal year 1987 will be between 235 and 238 instead of our authorized 245.

The Commission must emphasize, however, that the reduced staffing level is below what is needed to continue full and effective performance of agency service. It is this low staff level, however, that allows us to absorb all but $83,000 of the original supplemental request.

The $83,000 that we are asking for directly relates to costs associated with the new Federal retirement program, specifically $61,000 to cover the Commission s contribution to the optional thrift savings plan—these estimates, by the way, were reached following OMB guidelines—and $22,000 estimated to cover Commission costs for those employees expected to switch from the old retirement system to the new.

It is important to note that the impact of the new retirement program on the Commission is significant. Twenty-seven percent of our employees were hired after January 1, 1984, and, therefore, are automatically covered by the new system, compared to the estimated 12 percent of employees hired after January 1, 1984, Governmentwide.

Mr. Chairman, the Commission believes that this revised request represents a straightforward and responsible reassessment of its actual budget requirements for the remainder of fiscal year 1987. We urge approval of this request so that the agency may maintain the level and quality of services for which the 1987 budget was originally intended to provide.

PREPARED STATEMENT

At this time, Mr. Chairman, we will be pleased to answer any questions regarding 1988 or 1987. Thank you for your consideration.

[The statement follows:]

STATEMENT OF THOMAS J. JOSEFIAK

On behalf of the members of the Federal Election Commission, I wish to thank the Committee for this opportunity to present the agency's proposed 1988 budget and 1987 supplemental request.

FISCAL YEAR 1988 BUDGET OVERVIEW

We are requesting a 1988 funding level of $14,174,000, and a staffing level of 258 FTE. These figures were developed with OMB for submission in the President's budget, and are the result of negotiations over virtually every cost and calculation contained in our original, and higher, September budget request.

The proposed funding and staff levels for Fiscal Year 1988 provide for increases from our 1987 budget of $1,374,000 (a 10.7% increase) and 13 FTE (a 5.3% increase). They represent our agency's commitment to 1) maintain current levels of services, 2) meet the special demands of the 1988 Presidential election year, and 3) continue our efforts to "recapture" 1986 election cycle data not previously processed into our computer system.

The Commission estimates that an increase of 1.045 million dollars, or 76% of our proposed increase, is necessary just to maintain current levels of agency activity. Fixed costs, such as rent, Congressionally mandated salary increases and the new retirement program, account for $956,000. The remaining $89,000 is the Commission's estimate of additional agency-wide cost adjustments for inflation, such as the costs for telephone, equipment-rental and supplies.

The Commission, therefore, is seeking an additional $329,000 above what is necessary for maintaining the current level of agency services. Of this amount, $260,000 is directly attributable to the anticipated increase in Commission responsibilities in the 1988 Presidential election, and allows for an additional 12 FTE and $50,000 in staff travel. The

remaining increase of $69,000 and one staff year will make it possible to complete the computerization of data from the 1986 Congressional elections.

IMPACT OF 1988 PRESIDENTIAL ELECTION

The Commission is always presented with significantly increased responsibilities and demands upon its resources in the time period surrounding a Presidential election year. In addition to the normal, and historically increasing, workload involved in the biennial Congressional elections, Presidential campaigns generate substantial amounts of work for every division of the FEC.

Each Presidential candidate committee files massive monthly reports requiring detailed data processing and review. Committees representing the primary candidates, the national party conventions and, ultimately, the general election candidates must be certified to receive public funding and later audited. Presidential campaigns generate numerous compliance and enforcement matters. Party and political action committee financial activity increases dramatically during Presidential elections. The increased interest level of the news media and the general public creates increased demand upon our Press, Public Records and Information offices.

While there can be no "payouts" of public monies in this election cycle until January of 1988, Presidential aspirants can and will form their committees in 1987, begin raising their matchable contributions and start reporting to the Commission for disclosure and certification purposes. Even as the primary results begin to narrow the field of active candidates, the Commission's workload will not diminish. Unsuccessful candidates remain eligible to receive matching funds to retire net outstanding campaign obligations and to cover their "winding down" expenses. While many of the audit and enforcement issues

will not be resolved until Fiscal Year 1989, the certification, public funding and disclosure workload falls mostly in the budget year now being considered.

Most observers acknowledge that the 1988 Presidential election promises to be unique under our public financing system, adding to our normal Presidential election year workload. This will be the first Presidential election since Congress created the Federal Election Commission in which an incumbent President is not in the race. Contested nominations in both parties may result in 18 to 20 candidates qualifying for public funding. This will obviously place far greater responsibilities upon the Commission and demands upon agency resources than we have ever experienced before.

We are pleased to report that the General Accounting Office has again agreed to provide the Commission with staff auditors on a non-reimbursable basis to assist in our audit field work. We will receive three-and-one-half staff years of support in Fiscal Year 1988 and another four staff years in Fiscal Year 1989. This temporary assistance relieves the agency of having to maintain an excessive number of staff auditors in the "off" years, and permits us to restrain our hiring for the Presidential election cycle to only 12 staff years, many of whom will be temporary clerical staff who can be released or absorbed after the extraordinary workload has abated. These 12 FTE positions will be distributed as follows: six temporary bookkeepers in the Audit Division, three FTE in the Reports Analysis Division, two FTE in the Office of General Counsel and one FTE in the Information Division.

The Presidential election activity is above and beyond the FEC workload associated with the House and Senate races in 1988. In the 1986 Congressional elections, over 2000 candidate committees filed tens of thousands of pages of campaign finance

disclosure reports involving over 400 million dollars in campaign finance activity. Over 4000 political action committees and nearly 1000 national, state and local party committees, also subject to FEC regulation, filed reports of several times more volume than the candidate committees. Experience has demonstrated that the total dollars of campaign spending in federal elections increases each cycle well beyond the inflation rate, and that Presidential campaign activity does not diminish the amounts of money raised and spent in Congressional races. The 1988 election cycle appears likely to not only follow these historical trends, but to accelerate them dramatically.

RECAPTURE OF 1986 ELECTION DATA

Perhaps the most fundamental objective of the Federal Election Campaign Act that created the Federal Election Commission was the imposing of full disclosure and reporting obligations upon persons involved in federal political activity. The agency devotes a considerable amount of its resources towards facilitating and enforcing these obligations, and its effectiveness in meeting this responsibility has provided a key measure of its success. The FEC has generally received praise over the years for carrying out its duties in the disclosure area in an efficient and service-oriented manner.

Last year, however, the Commission was faced with difficult choices in adapting to sizable and unexpected "Gramm-Rudman" and other budget cuts. One of the areas that seemed most capable of absorbing these cuts on a short term basis was, unfortunately, the computerized aspect of our disclosure function. For choosing to temporarily forego the data capture on our computer system of some of the detailed information in 1986 disclosure reports, the Commission was strongly criticized.

The Commission sincerely regrets any inconveniences that these cutbacks in computerized disclosure access caused the

public. We have already undertaken steps to "recapture" data that was not processed earlier, by devoting administrative savings in FY 1987 to the data entry of individual contributions of over $500 reported by candidate committees for the 1986 elections. Those savings, totalling almost $134,000, were reached through unanticipated rent savings, cost-cutting in computer contracts with outside providers and lower staffing levels due to the 1986 hiring freeze.

The proposed 1988 budget seeks to continue and complete this effort to recapture detailed 1986 data for our computer system. Our budget request includes funding of $203,000 ($69,000 more than will be spent on data recapture in FY 1987), and one FTE, for the data entry of contributions of over $500 to party and political action committees during the 1986 election cycle. We look forward to restoring our computerized research services to their full and complete level of usefulness as we enter the new political season.

AGENCY DIVISIONS AND OPERATIONS

The Federal Election Commission is charged under the Title 2 provisions of the FECA with enforcing its disclosure requirements and limits and prohibitions upon federal campaign finance activity, as well as with providing the public access to campaign finance disclosure reports. The agency is also responsible under Title 26 for implementing the public financing system for Presidential elections.

The FEC's disclosure function is performed primarily through the Data Division (generally about 30 staff) and the Public Disclosure Division (generally about 12 staff). These divisions have developed a campaign finance disclosure program that is very highly regarded for the speed, accuracy and sense of public service and helpfulness with which reports are made available.

The Reports Analysis Division (generally about 40 staff) and the Audit Division (generally about 25 staff) perform a valuable service to the regulated community by monitoring and encouraging compliance with the requirements of the Act. RAD analysts are assigned a specific group of committees for which they monitor reports, perform desk audits and help the committee treasurers to achieve timely, accurate and complete compliance with the statute and Commission regulations.

The Commission directs FEC auditors to conduct detailed field audits in situations where desk audits have revealed extensive reporting problems, or occasionally in conjunction with enforcement cases. In a Presidential election year, the audit staff (with the assistance of temporary clerical and professional staff from the General Accounting Office) certify public funding disbursements for Presidential candidate committees and conduct audits to see that these funds were legally spent. The auditors advise and assist presidential campaigns throughout the process with their recordkeeping responsibilities, and the Audit Division prepares several detailed guides to encourage compliance with the statute and Commission regulations. The Audit Division also assists the Commission in reviewing and revising both audit "threshold" policies and Presidential public funding regulations.

The Office of the General Counsel (generally about 65 staff) performs a number of legal support functions for the Commission, which are described below in terms of FTE during FY 1986.

About 40% of the Counsel's staff time (25 FTE) was devoted to handling enforcement matters (Matters Under Review or MUR's), which are brought to the Commission through complaints filed by outside parties or through internal processes, such as desk or field audits. The Counsel's enforcement work includes preparing reports for the Commission, conducting investigations into possible violations of the Act and seeking settlement of cases

through the conciliation process. The drafting of regulations and advisory opinions and related matters comprised eight FTE, and almost 12 FTE were involved in handling the Commission's litigation matters. Even in a "non-Presidential" year, four FTE were needed for legal review of Presidential audits. Additionally, the Office of the General Counsel is responsible for advising the Commission on general administrative law and policy (including FOIA and Sunshine Act issues) and for maintaining the Commission's law library.

The Commission's Press Office (generally about 4 staff) and the Information Division (generally about 12 staff) communicate with the regulated community, news media and general public about the requirements of the law and Commission activity. Through press releases, publications, training workshops and a toll-free access telephone line, these offices seek to further the goal of voluntary compliance by improving awareness and knowledge of the Act and Commission regulations.

The Commission also operates a Clearinghouse on Election Administration (generally about 4 staff), authorized by the FECA, to facilitate the exchange of technical information between the thousands of state and local officials who actually conduct federal elections. This office has recently focused much of its work towards developing performance and test standards for computerized voting equipment and reporting on state implementation of the Voting Accessibility for the Elderly and the Handicapped Act. The Clearinghouse produces numerous publications of value to election administrators, including compendia of state laws regarding absentee voting, ballot access, and contested elections. The Clearinghouse staff devotes considerable time to researching and responding to inquiries from state and local officials, representatives of foreign governments and Commission staff.

The balance of the FEC staff work is conducted in the Office of the Commission's Secretary and the Staff Director's Office (18 FTE), the Administrative Division (15 FTE) and the offices of the Commissioners (20 FTE).

GENERAL BUDGET CONSIDERATIONS

The Federal Election Commission's proposed budget for 1988 does not, and realistically cannot, anticipate the dramatic impact upon the Commission's operation that would likely result from many of the proposals currently before Congress for sweeping changes in federal election law, including proposed expansion of public financing to Congressional elections. Any new legislation would presumably be accompanied by a proportionate increase in funding through supplemental appropriations.

The Commission also notes that its proposed budget for 1988 does not afford the agency any capability for exploring new information and data processing technologies for its disclosure program, or for pursuing other legal research and program development projects originally proposed.

The Commission's 1988 budget request reflects our genuine effort to carefully balance the interests of responsible budget restraint and the mandate of the FECA under which we operate. As the Commission approaches a particularly challenging year in its history, we are confident that this proposed budget will provide us the appropriate means to meet our responsibilities capably and efficiently.

FY 1987 SUPPLEMENTAL BUDGET REQUEST

The Federal Election Commission has recently determined that its original supplemental appropriation request for FY 1987 should be revised downward to $83,000, based upon a careful and

extensive review of its projected personnel costs for the current fiscal year.

The Office of Management and Budget approved the Commission's original request for supplemental funds of $290,000 to cover anticipated increases in personnel costs in 1987. That figure was comprised of: 1) $88,000 needed to cover one half of the cost of the three percent across-the-board pay increase that went into effect on January 1, 1987; and 2) $202,000 needed to cover the additional costs of implementing the new federal retirement program.

The Commission continues to anticipate these increased personnel costs for 1987. An examination of the Commission's actual and projected staffing levels for 1987, however, indicates that the agency is not reaching authorized FTE levels as quickly as expected or hoped, due to three main factors: 1) a very low staff level at the beginning of the year (230 FTE), because of the hiring freeze instituted at the initial imposing of "Gramm-Rudman" budget cuts; 2) a delayed and reduced recruitment effort until FY 1987 budget uncertainties were resolved mid-year; and 3) higher than expected turnover rate among current employees.

The Commission will reach an FTE level of 251 by the end of the year and a cumulative FTE level for 1987 of between 235 and 238, rather than the cumulative FTE level for 1987 of 245 originally planned. The resulting temporary budget savings in overall personnel costs in 1987 improve the agency's ability to absorb the increased costs from the pay raise and changes in federal retirement programs, and reduce the need for supplemental funding. The Commission notes, however, that the reduced staffing level is below that which is needed to continue full and effective performance of agency services, and that appropriate efforts are being taken to reach the authorized staff level.

The total projected cost of the three percent pay raise for FEC employees in FY 1987 is $176,000. The Commission's original request for $88,000 in supplemental funding for these costs was predicated on the Office of Management and Budget's policy of not considering agency requests for pay supplementals that do not assume the agency will absorb 50% of the increase within the previously approved funding level. Due to the budget savings from reduced FTE levels, the Commission now anticipates absorbing the entire increased personnel costs arising from the pay raise.

The new Federal Employee's Retirement System (FERS) will be completely funded by the agency and participating employees. Funding by the Office of Personnel Management of the shortfall for present annuitants under the old Civil Service Retirement System (CSRS) will gradually be "phased out" as new employees (automatically under the new system) are hired. The projected $202,000 in increased costs for FEC retirement program obligations in 1987 will be partially offset by the savings from lower staff levels. The Commission's revised request anticipates a remaining need for $83,000 in supplemental funding, composed of: 1) $61,000 needed to cover agency contributions to the optional Thrift Savings Plan (TSP) available to employees under FERS, estimated according to OMB guidelines, and 2) $22,000 needed to make up the immediate loss of OPM funding for those employees expected to switch from CSRS to FERS.

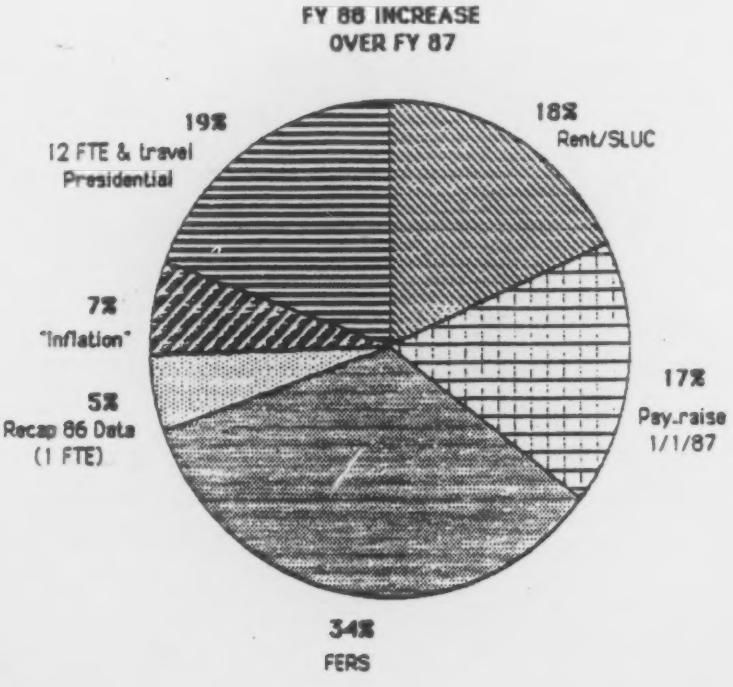
The Commission also notes that the agency's incremental costs for FERS funding are higher than most agencies because of a relatively new and young staff: 27% of FEC employees have been hired since January 1, 1984, and are automatically covered by the new system, compared to an estimated 12% post-1984 hirees government-wide.

Small, labor intensive agencies such as the Federal Election Commission do not have the diversity or flexibility to move

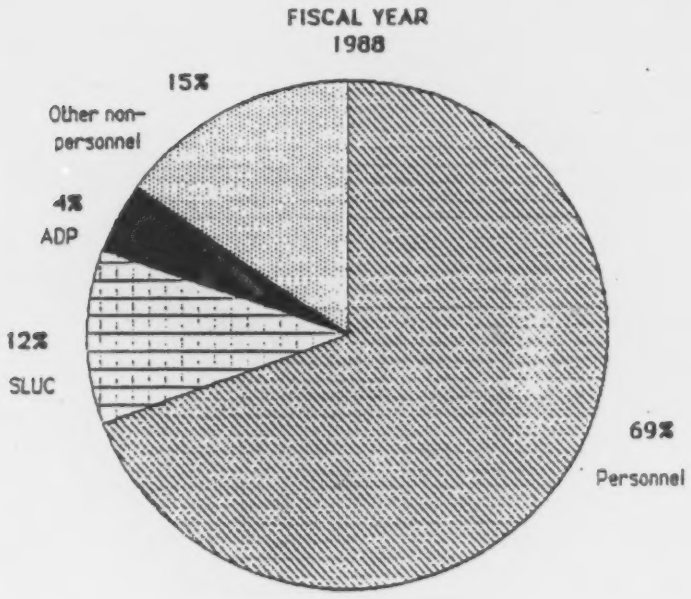
around funds from program accounts to cover large and unexpected increases in operating costs, as the Office of Management and Budget acknowledged in approving the original 1987 supplemental budget request. Absent the countervailing savings resulting from the agency's low staffing level this year, the Federal Election Commission would have needed the additional funding originally requested. The Commission believes that this revised request represents a straightforward and responsible reassessment of its actual budget requirements for the remainder of FY 1987. We urge approval of this request, so that the agency may maintain the level and quality of services for which its 1987 budget was originally intended to provide.

We would be pleased to respond to any questions that you may have.

INCREASE FOR FY 1988 OVER FY 1987



FY 1988 RESOURCE ALLOCATION



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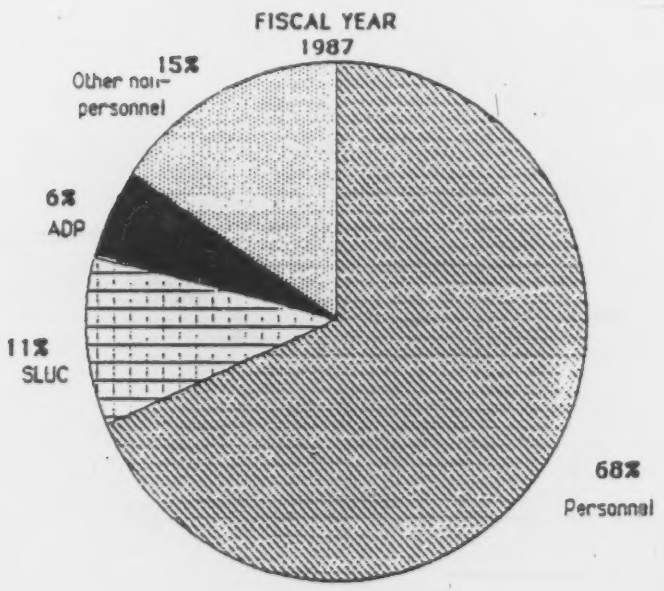

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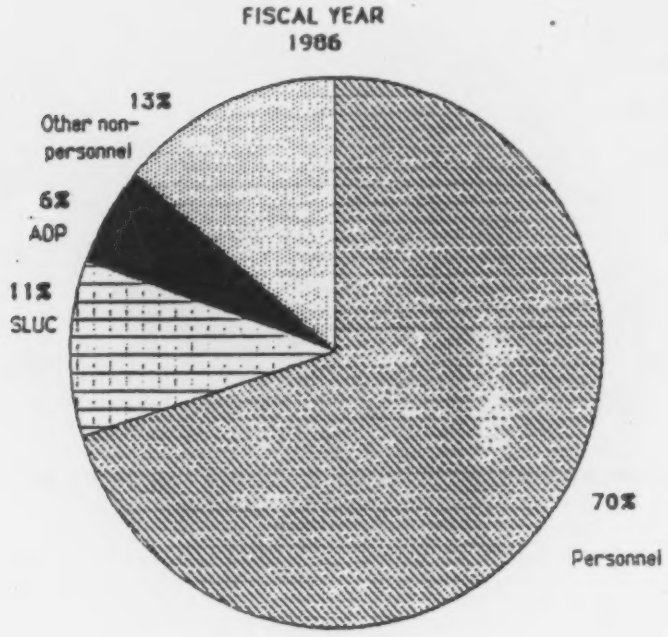
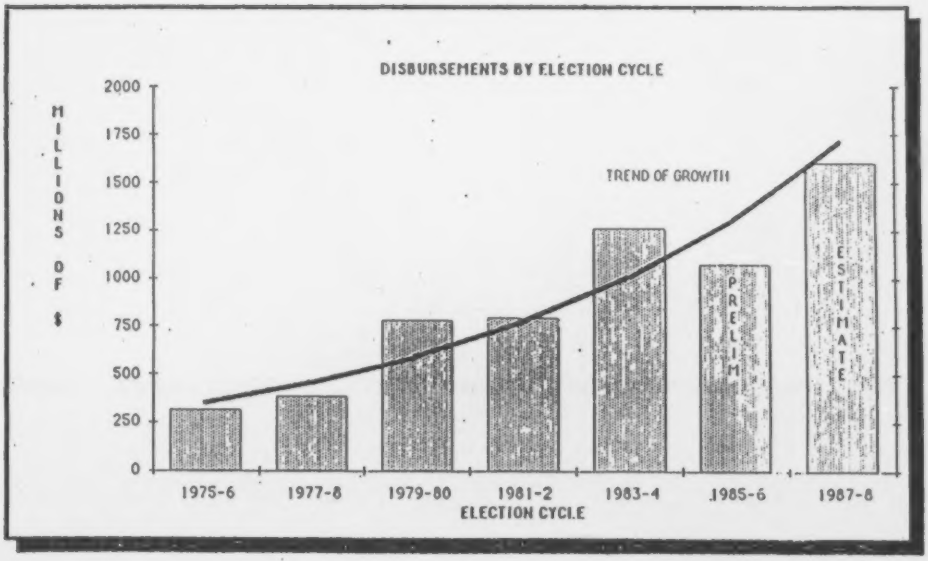
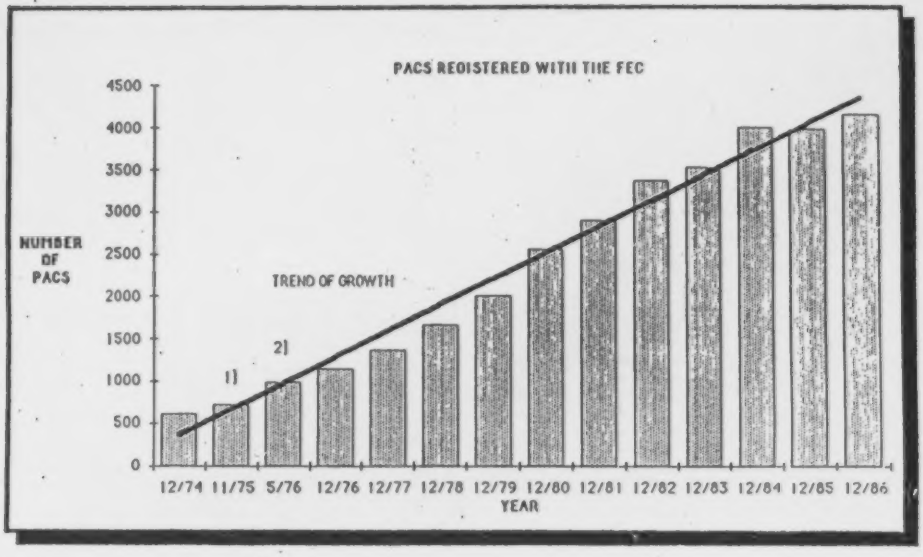
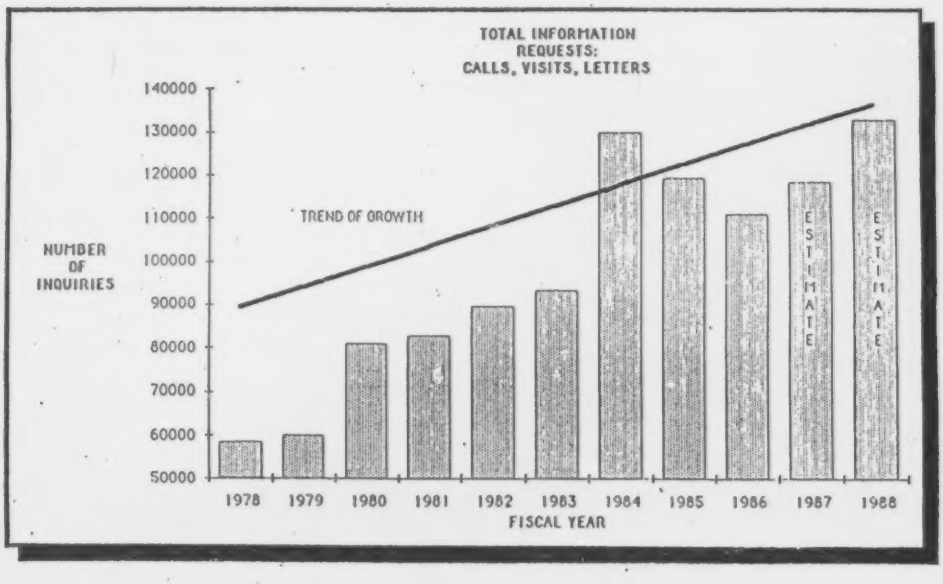


FEC FY 1988 BUDGET REQUEST

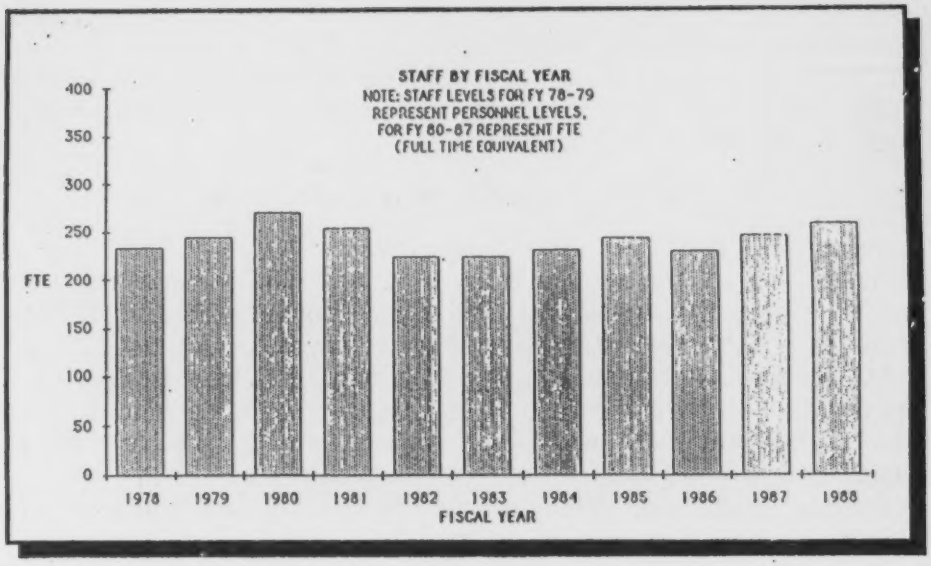




1] 11/75: "SUN PAC AO ISSUED"; 2] 5/76: 1976 FECA AMENDMENTS ENACTED



NUMBER OF INFORMATIONAL REQUESTS BY FISCAL YEAR 2/12/87



STAFF LEVELS BY FISCAL YEAR (FY 87 AND 88 ARE ESTIMATES) 2/13/87

STAFF TURNOVER

Senator DECONCINI. Thank you, Mr. Josefiak.

You touched on the first question I had and that is the high turnover you have—about 20 percent.

Why is that in your agency. I realize that that has a great deal to do with your lowering your request here from over $200,000 down to $83,000, and I compliment you. We are delighted to see the FEC come forward with an actual reduction, but why is the turnover so high?

Mr. JOSEFIAK. There are a lot of reasons, Mr. Chairman. Primarily we are a very young agency and a small agency and what we do is get individuals who are capable individuals, who get their training at the Commission and then go on to bigger and better things.

Senator DECONCINI. Such as? Have you tracked some of the people that have left there?

Mr. JOSEFIAK. Professionally, yes. We have two problems. One is the professional problem and it deals basically with our auditors and our General Counsel's office. We lose a great number of auditors to the major accounting firms, as well as our attorneys to major firms within the District of Columbia and elsewhere.

Election law is a rare specialty and it is becoming more and more of an asset to have these days. We do lose people in that area—the professional side.

Senator DECONCINI. Is that where they go? Have you tracked them and they do go to these firms?

Mr. JOSEFIAK. We do know that they go to firms and campaigns, Mr. Chairman.

The other side of it is the clerical side and you touched on it earlier with Ms. Horner. We are in that program. We are trying to maintain our clerical level by increasing the salary of certain grades of clerical employees that we do have. But that is our dual problem, the lower end of the spectrum in the clerical area and the professionals; specifically in audit and the General Counsel's office.

IMPACT OF 1988 PRESIDENTIAL ELECTIONS

Senator DECONCINI. In your budget justification, you indicate that the 1984 Presidential election cycle involved $1.25 billion in regulated activities. You go on to say that 1988 could show another 50-percent increase in regulated activities. That is staggering if you are correct.

Mr. JOSEFIAK. It certainly is, Mr. Chairman, and we base that on the figures we had. I believe part of that justification does have the charts which demonstrate why we estimated those costs. I think they are very conservative, by the way.

Senator DECONCINI. Why do you believe they are going to be so high, without looking at your charts?

Mr. JOSEFIAK. Well, there are a combination of things. What we have seen over the past is that no matter how many candidates you have—and I think that is a factor this time with more candidates—that is one factor.

But the other thing, even if you maintained the same number of candidates, the cost of campaigning has dramatically increased from one election cycle to the other.

Senator DECONCINI. How are you possibly going to cope with that, when, in fact, you have an increase of only 11 percent?

Mr. JOSEFIAK. Well, in the best of all worlds we would probably be asking for a lot more money but we were trying to be realistic about it and trying to get the sense of Congress and the President as far as maintaining a certain budget level. But I think it is not the nature of the amount that is spent. People still have to file reports; people still have to report certain activity.

Certainly the number of pages of reports might increase, but we still have to have people who review them, so even though it might be an increased level of activity, it doesn't have the same dramatic increase as if you had to start from scratch. We do have the staff there. They might have to do a little more review of a number of pages, but we still have the staff there.

Senator DECONCINI. Well, you are more optimistic than I am, and I am not being critical. I think you do a good job for the most part, and quite frankly, I just don't see how you are going to cope with that without more people.

Mr. JOSEFIAK. Well, Mr. Chairman, that is specifically why we asked for 12 additional people for the Presidential election cycle. Six specifically would be in our Audit Division. Three would be in our Reports Analysis Division, two would be in our Office of General Counsel and one would be in our Information Division just to answer the phone calls.

We also are bringing on board some GAO auditors—six of them during the Presidential election cycle.

Senator DECONCINI. Will you borrow those?

Mr. JOSEFIAK. We borrow those. We used them in 1984 and it worked out extremely well. It is beneficial to both agencies in that regard and we will use that this cycle.

Senator DECONCINI. They are cooperative and there is no reimbursement necessary?

Mr. JOSEFIAK. No; they are paid by GAO.

PROPOSED CAMPAIGN FINANCE LEGISLATION

Senator DECONCINI. Are you following the Boren-Byrd PAC limitation bill, or other legislation in anticipation of what it might do to your agency if you had to make a major change such as that in the Boren-Byrd bill?

Mr. JOSEFIAK. Yes, Mr. Chairman; we are. We have been requested by the Congressional Budget Office as well as individual Members of the House and Senate to give an estimate of what the Boren-Byrd bill will cost and we have done so.

Senator DECONCINI. When will you have that?

Mr. JOSEFIAK. We have completed that estimate Senator and it should be available to you right at this moment. Basically we are saying what it would cost over the 2-year cycle, assuming that the plan went into effect in 1988, and we are talking now specifically of the Boren bill as written, not some of the other amendments that are proposed.

Senator DECONCINI. The Boren bill as written and introduced in the 100th Congress?

Mr. JOSEFIAK. That is right.

Senator DECONCINI. OK. We would like a copy of that, or a summary of whatever you have.

Mr. JOSEFIAK. We will be happy to get it to you, Senator. It will cost us as an agency—and we are estimating very conservatively—approximately $1.5 million during the 1988 election cycle. We are estimating $92 million as the cost to the U.S. Treasury for financing the grant program.

ADDITIONAL COMMITTEE QUESTIONS

Senator DeConcini. I have some other questions and I will submit them to you, as I believe Senator Domenici does, particularly on a 2-year budget. Due to time, that is all I am going to ask you today. Thank you very much.

Mr. JOSEFIAK. Thank you Senator, and we will be happy to respond.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Pete V. Domenici

FY 1987 SUPPLEMENTAL REQUEST

Question. You mention in your testimony that one of the factors contributing to a downward adjustment of your fiscal year 1987 supplemental request was a higher than expected turnover rate among your current employees.

Just what has been the Commission's turnover rate and do you expect a continued high turnover rate to be a problem in meeting your staffing level projected (i.e., 258 FTE) for fiscal year 1988?

Answer. So far this year we have had a 20% turnover rate. The Commission experiences higher turnover in two major areas: professional staff (especially in Audit and OGC) and lower level clerical staff (GS 3, 4, 5, 6, & 7). We will most likely continue to have a fairly high turnover rate in the professional legal ranks, as staff members gain two to three years experience then depart for campaigns or private concerns with campaign related activity. Retaining experienced clerical staff is a continual problem, although the recent government wide clerical pay initiative should help. We believe we can achieve our desired staffing level in fiscal 1988.

FY 88 PRESIDENTIAL ELECTION

Question. You are anticipating an increase in workload as a result of the 1988 Presidential election. You mention in your testimony that 18 to 20 candidates may qualify for public funding. Would there be a decrease or increase in the Commission's request of $260,000 to carry out its responsibilities in the 1988 Presidential election if the number of candidates falls below or exceeds this anticipated level?

Answer. The Commission is accepting the offer of non-reimbursed assistance from the GAO, specifically for 6 auditors for portions of FY 1988 and FY 1989. This held down our requirements for additional staff due to the 1988 elections to 12 FTE above our normal base of 245 FTE. We are expecting 18-20 candidates in 1988. If the number of candidates drops down to 15, the same additional staff will be required; however, the audits should be released sooner than now anticipated. For the Audit Division, the requested staffing of 24 core staff plus 6 temporaries and 6 GAO auditors is not much more than in 1984 (24 staff plus 3 temps plus 5 GAO auditors) when there were 11 candidates.

In the event of a decrease to 10 candidates the Commission will reduce the number of temporaries hired, and will require fewer GAO auditors. Additional staff in OGC, RAD, and Information will still be required.

At fewer than ten candidates, the Commission would not require assistance from GAO, but would still have to hire some temporaries to assist in certification. The additional staff in OGC and RAD could be reduced by approximately 60% (2 FTE versus 5 FTE).

Any increase above 20 candidates would require aproximately 1.5 FTE in Audit for every 2 additional candidates. A significant increase over 20 candidates (coupled with a resulting increase in campaign funds involved) would require additional staff in other Commission Divisions as well: Data Systems, Disclosure, and Press, as well as more additional staff in OGC.

Question. You mention that most of the public funding and disclosure workload related to the 1988 Presidential election falls in the fiscal year 1988 budget year, but that many of the audit and enforcement issues will not be resolved until fiscal year 1989. Do you anticipate that a funding level commensurate with the increase proposed for fiscal year 1988 to carry out your responsibilities related to the Presidential election will be necessary in fiscal year 1989 as well?

Answer. The Commission anticipates a funding level in FY 1989 commensurate with the funds requested in FY 1988, due to the two year cycle of work related to the 1988 Presidential elections. OMB planning guidance has recognized this necessity, and has provided for 258 FTE in FY 1989 as well as in FY 1988, plus sufficient funds to support 258 FTE. Both the FEC and the OMB project a drop back to 245 FTE for the 1990 congressional election cycle at this time.

Question. You note that historical trends indicate that total dollars of campaign spending in Federal elections increase with each cycle well beyond the inflation rate. Does the increase in funding requested by the Commission to meet the demands of the 1988 Presidential election take into account an increased workload based on this historical experience?

Answer. The Commission Budget request for FY 1988 reflects the projected workload as based upon expected campaign finance activity. The 245 FTE base staff are necessary to ensure there is no degradation of Commission efforts in the face of expected historical growth in campaign finance activity. The 12 FTE above 245 related to the Presidential election should enable the Commission to cope with the expected workload growth as well as the unique situation of an "open" Presidential election.

DIFFERENCE BETWEEN ORIGINAL AND CURRENT REQUESTS

Question. The Commission's fiscal year 1988 funding request of $14.174 million and a staffing level of 258 is the result of negotiations with the Office of Management and Budget (OMB). This request represents a reduction of $159 thousand and 3 FTE from the Commission's original September 1986 concurrent budget submission. Would you please summarize the major differences between your original budget submission and your current request?

Answer. The major differences between the original FEC Base Budget Request and the agreed to number with OMB are as follows:

1. Provision for completion of the recapture of 1986 election cycle detailed disclosure data begun in FY 1987 versus total recapture in FY 1988 as originally anticipated (1 FTE and $190,000.)

2. Reduction of 2 FTE in the General Counsel's Office which was for expected increased workloads in enforcement, regulations, and advisory opinions. We essentially reduced our projections of workload increase and cancelled our plan for across the board regulations review to meet the OMB budget target. (Approximately $65,000)

3. Reductions for personnel and for non-personnel support costs, offset by a large increase in benefits costs for FERS. Largely due to refinement of personnel costs expected, as well as real reductions in support costs. The Commission reduced equipment purchases and other support areas significantly in order to achieve the OMB figure. (Reduction of $372,000 offset by increase of $468,000 for FERS)

The Commission determined that the OMB passback was reasonable in that it recognized the need for additional staff due to the 1988 elections, notwithstanding general spending constraints. Therefore, the FEC agreed to the passback despite some reductions in basic personnel costs as well as support costs. Furthermore, the OMB passback fully provides for the January 1, 1987 pay costs in FY 1988, and the FERS costs in FY 1988. With that in mind, the Commission agreed to the OMB proposal.

FY 1988 INCREASE

Question. Of the proposed increase requested for fiscal year 1988, you say that 76 percent is to maintain current levels of activity. Would you please give us the amount of increase requested for each of your fixed costs? For example, what is the amount of increase requested for rental payments, for salary increases, for retirement costs above current levels?

Answer. The fixed costs contained in the increase over FY 1987 include the following:

1. SLUC (rent) increase $249,000

2. Pay costs (due to 1/1/87 pay raise) $239,000

3. FERS costs $468,000

This total increase of $956,000 does not provide for any additional staff, nor does it provide for any new program initiatives. The increase merely provides for the cost of existing space (GSA rates) and the impact of the January 1, 1987 pay raise and the new FERS. To these three fixed increases, our current services budget also includes $89,000 to cover a minor level of inflation in other object classes.

ADP CONTRACT COSTS

Question. What do you expect your ADP contract costs to be in fiscal year 1988? How does this compare with those costs in fiscal year 1987?

Answer. For FY 1988, the Commission expects to spend $901,000 total for ADP and ADP related costs, including the recapture of 1986 election cycle data. For FY 1987, the Commission expects to spend $909,000 on ADP and ADP related costs.

BIENNIAL BUDGET

Question. Would your department/agency favor a biennial budget process? What benefits would your agency achieve in a two-year appropriation cycle?

Answer. The FEC would definitely favor a biennial budget submission. It would allow us to plan for a two year election cycle on a complete basis assuming the budget cycle is in sync with the election cycle: FY 1988 and FY 1989 for example. Furthermore, because the peak election activity occurs in October and November (right at the FY break) it would provide us with more flexibility during our heaviest workload period. It should also help avoid large year-to-year swings in funding which make election cycle planning more difficult.

Question. Approximately what proportion of your annual appropriation request would you consider simply repetitious of the previous year's submission?

Answer. Most of the FEC budget submission from year to year represents provision for the basic staff of 245 FTE and the funds necessary to support them. Adjustments in that regard are made for increases in fixed costs (SLUC, pay, etc.) plus some adjustments to cover inflation. Because the Commission plan is based upon the two-year election cycle, it tends to staff-up marginally during the even or "election" years (FY 84, FY 86, FY 88), and staff-down marginally during odd years (FY 85, FY 87, FY 89).

Thus, much of the budget preparation is repetitious, with provisions for some new initiatives as well as fixed cost increases plus some small inflation factor.

Question. What difficulties can you foresee in preparing and submitting a two-year budget to the Congress?

Answer. The major difficulty is in forecasting some support costs two years ahead, as well as predicting workloads. However, the Commission must plan for each four year Presidential cycle, and the historical pattern shows a fairly predictable increase in campaign finance activity from cycle to cycle (see attached chart). Absent major unforeseen occurrences, two year planning is not that difficult. Never-

theless, the recent trend towards annual changes in basic government pay and/or benefits programs could cause problems. Provision would have to be made to allow for unexpected changes in basic, fixed costs through supplementals.

Question. Would you expect to realize any budget savings if you could plan your agency budget on a two-year basis? If so, could you estimate how much?

Answer. The major savings would be in the more flexible use of funds within the two year period. As for direct actual savings it would be difficult to estimate without experience under the system. The major benefit is more efficient use of resources for long range activities over more than one fiscal year. It is possible that non-personnel costs could decrease somewhat.

Question. If you oppose the biennial budget concept, please give this subcommittee your reasons why.

Answer. The Commission heartily supports the biennial budget concept providing:

1. The two-year budget cycle for the FEC matches the election cycle.

2. There is provision made for unforeseen changes to basic pay, retirement, benefits, or other basic fixed costs through use of supplementals.

COST ANALYSIS ON S. 625

Question. Earlier in this session, I introduced S. 625, a bill to raise the spending limits for those Senate candidates confronted with an opponent who plans to spend at least $250,000 in personal and family money on the campaign. I think it is a good bill, but I would like your thoughts on it, not the philosophy, but your thoughts on whether or not the reporting procedures are practical and not excessively cumbersome. Specifically, I would hope you would go through the bill and give me any suggestions for changes that you believe would make the bill more workable, if you find any.

Answer. Our staff has reviewed S. 625 with the objective of assessing its administrative cost. The bill requires Senatorial candidates to declare their intent to either stay within or exceed the $250,000 threshold when they qualify for the ballot. Further, should any candidate who first declares their intent to stay within that threshold subsequently change their mind, they must notify the Commission and their opponent(s) within 24 hours of that decision or act. By placing the reporting burden squarely on the candidate, the Commission's incremental administrative requirements are narrowed to the application of an additional set of contribution limits in some cases, and the likelihood of some additional enforcement and litigation activity in cases where candidates appear to violate the new strictures.

A review of our 1986 cycle data base indicates 11 Senatorial candidates loaned and/or contributed over $250,000 to their own campaigns. In some cases, a second loan is acquired to retire an initial loan, and in such cases, the combined value is counted.

The bill would also proscribe the infusion of any personal funds whatever within 60 days of an election. We haven't the capability to readily assess how many candidates did provide their campaigns with personal funds or loans within that proximity of the 1986 elections. Under our present reporting requirements, if a ban on personal funds within 60 days of an election were enacted, the Commission and the public might well only learn of such activity just before or even after the election.

In developing the following resource estimate, we assumed that employing ballot qualification as the point at which a candidate files their declaration would not override the statutory definition of candidacy at 2 U.S.C. §431(2). Our regular registration and reporting requirements would still only apply to candidates raising or expending over $5,000. One might qualify for the ballot in some states without achieving this monetary definition. Qualifying for the ballot would not, by itself, trigger candidacy status for purposes other than filing the declaration.

The two organizational units which would be impacted by S. 625 are our Reports Analysis Division which monitors the candidates' disclosure reports and our Office of General Counsel which investigates and litigates apparent violations of the Act. The combined resources of both units to implement the bill if enacted as written would be two staff years ($61,500) to develop the internal procedures and regulations on a onetime basis. To administer the provisions on a recurring basis thereafter would entail roughly the same level of effort each year, i.e., two staff years. If the law were enacted with some degree of lead time, the staff time expended in start-up activities might not overlap the staff time engaged in recurring work. If such were the case, a simple annual cost in current dollars of $61,500 constitutes our best estimate of the administrative impact of S. 625.

PROPOSED CAMPAIGN FINANCE LEGISLATION

Question. There are a number of campaign spending bills currently before the Committee on Rules, including my bill, S. 625. Could you give us any thoughts you might have on the specific bills and whether you would have sufficient funds to enforce them, should they become law. Which bills would require the most additional spending by the FEC? Which the least?

Answer. We routinely defer to Congress on the formulation of substantive legislation. The Fiscal Year 1988 Budget Request before the Subcommittee was predicated on existing law. It is impossible to predict if major amendments to our statute will be adopted this session, and if so, what form they will take. We therefore believe it prudent to seek

only the funds needed for the program as now structured and await the outcome of Congressional consideration being given the various substantive proposals now before it. At such time as a given bill appears destined for enactment, we will develop a supplemental budget request if an impact on fiscal year 1988 operations is likely. Given our limited staff resources to evaluate the potential administrative impact of the numerous bills, we have performed cost analyses only when expressly requested to do so. Such analyses have been made on S. 2 and S. 625 and are included in these responses.

Questions Submitted by Senator Alfonse M. D'Amato

ENFORCEMENT PROCEDURES

Question. I'd like to direct this question to Chairman Thomas, but I would also be interested in the responses of the other Commissioners present here today. Recently, Senator Reid of Nevada alleged in testimony before the Senate Rules Committee that representatives of the Commission approached officials of the Nevada Democratic Party after last November's elections and suggested dropping a pending enforcement matter against various Republican officials because the elections were over, and the Republicans had lost. I'm a little puzzled by this report, first, because, as I understand it, once an administrative enforcement proceeding is initiated the complainant is no longer a party to the matter -- the FEC pursues it -- and so the complainant is powerless to drop the action. Nevertheless, if the story is true, then that overture was improper, to say the least. Would you care to comment?

Answer. First, you are correct in noting that in our enforcement matters the complainant cannot halt the process by withdrawing the complaint. Second, when we learned of Senator Reid's allegation, we immediately questioned all staff members who might have had contact with the complainant or the complainant's representative. We are confident that no FEC staff member offered such a suggestion either formally or informally. We believe that some confusion may exist between the enforcement matter pending before the Commission and a suit filed against the Commission by the complainant in an effort to compel action pursuant to 2 U.S.C. §437g(a)(8). Conversations between the respective counsel did, naturally, take place in that litigation and the complainant subsequently voluntarily dismissed the suit.

PROPOSED CAMPAIGN FINANCE LEGISLATION

Question. As everyone in this room probably is aware, and certainly you, Chairman Thomas, are aware there are a number of legislative proposals pending in Congress to revamp the Federal Election law. While some of these are targeted at certain contribution sources, such as PACs, others suggest more sweeping structural changes both in the campaign finance system and in the role of the Federal Election Commission. I would be most interested to hear any comments on these proposals that you or your fellow Commissioners would care to make.

Answer. Routinely, the Commission defers to Congress on the fundamental public policy considerations contained in any proposed legislation. We do proffer technical and administrative suggestions on an annual basis which we collectively believe would enchance the present system. I have attached a copy of this year's proposals. In addition, we will attempt to prospectively assess the administrative cost of any given proposal on request; but haven't the staff resources to delve into all the various proposals on our own motion. I am further attaching our cost analysis of the Boren/Byrd bill, S. 2, which was developed at the request of the Congressional Budget Office and Senator DeConcini. We are also working on a like request by Senator Domenici on S. 625. That response is included herein.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 3, 1987

The Honorable George Bush
Vice President
Room 280
Old Executive Office Building
Washington, D.C. 20501

Dear Mr. Vice President:

In accordance with 2 U.S.C. §438(a)(9), the Federal Election Commission is pleased to submit for your consideration twenty-four recommendations for legislative action.

For each of the recommendations included in this year's submission, the Commission has presented an explanation, believing that a primary value of the recommendations is to acquaint Congress and the public with difficulties that have been encountered in administering the law.

In view of the wide interest concerning campaign financing, we trust that these proposals will be helpful to deliberations regarding the Federal Election Campaign Act and the activities of the Federal Election Commission.

Sincerely,

Scott E. Thomas
Chairman

Enclosures

LEGISLATIVE RECOMMENDATIONS -- 1987

DEFINITIONS

Draft Committees
Section: 2 U.S.C. §§431(8)(A)(i), 431(9)(A)(i), 441a(a)(1) and 441b(b)

Recommendation: Congress should consider the following amendments to the Act in order to prevent a proliferation of "draft" committees and to reaffirm Congressional intent that draft committees are "political committees" subject to the Act's provisions.

1. Bring Funds Raised and Spent for Undeclared but Clearly Identified Candidates Within the Act's Purview. Section 431(8)(A)(i) should be amended to include in the definition of "contribution" funds contributed by persons "for the purpose of influencing a clearly identified individual to seek nomination for election or election to Federal office...." Section 431(9)(A)(i) should be similarly amended to include within the definition of "expenditure" funds expended by persons on behalf of such "a clearly identified individual."

2. Restrict Corporate and Labor Organization Support for Undeclared but Clearly Identified Candidates. Section 441b(b) should be revised to expressly state that corporations, labor organizations and national banks are prohibited from making contributions or expenditures "for the purpose of influencing a clearly identified **individual** to seek nomination for election or election..." to Federal office.

3. Limit Contributions to Draft Committees. The law should include explicit language stating that no person shall make contributions to **any** committee (including a draft committee) established to influence the nomination or election of a clearly identified **individual** for any Federal office which, in the aggregate, exceed that person's contribution limit, per candidate, per election.

Explanation: These proposed amendments were prompted by the decisions of the U.S. Court of Appeals for the District of Columbia Circuit in FEC v. Machinists Non-Partisan Political League and FEC v. Citizens for Democratic Alternatives in 1980 and the U.S. Court of Appeals for the Eleventh Circuit in FEC v. Florida for Kennedy Committee. The District of Columbia Circuit held that the Act, as amended in 1979, regulated only the **reporting requirements** ofdraft committees. The Commission sought review of this decision by the Supreme Court, but the Court declined to hear the case. Similarly, the Eleventh Circuit found that "committees organized to 'draft' a person for federal office" are not "political committees" within the Commission's investigative authority. The Commission believes that the appeals court rulings create a serious imbalance in the election law and the political process because a nonauthorized group organized to support someone who has not yet become a candidate may operate completely outside the strictures of the Federal Election Campaign Act. However, any group organized to support someone who has in fact become a candidate is subject to the Act's registration and reporting requirements and contribution limitations. Therefore, the potential exists for funneling large aggregations of money, both corporate and private, into the Federal electoral process through unlimited contributions made to nonauthorized draft committees that support a person who has not yet become a candidate. These recommendations seek to avert that possibility.

REGISTRATION AND REPORTING

Commission as Sole Point of Entry for Disclosure Documents
Section: 2 U.S.C. §432(g)

Recommendation: The Commission recommends that it be the sole point of entry for all disclosure documents filed by Federal candidates and political committees.

Explanation: A single point of entry for all disclosure documents filed by political committees would eliminate any confusion about where candidates and committees are to file their reports. It would assist committee treasurers by having one office where they would file reports, address correspondence and ask questions. At present, conflicts may arise when more than one office sends out materials, makes requests for additional information and answers questions relating to the interpretation of the law. A single point of entry would also reduce the costs to the Federal government of maintaining three different offices, especially in the areas of personnel, equipment and data processing.

The Commission has authority to prepare and publish lists of nonfilers. It is extremely difficult to ascertain who has and who has not filed when reports may have been filed at or are in transit between two different offices. Separate points of entry

also make if difficult for the Commission to track responses to compliance notices. Many responses and/or amendments may not be received by the Commission in a timely manner, even though they were sent on time by the candidate or committee. The delay in transmittal between two offices sometimes leads the Commission to believe that candidates and committees are not in compliance. A single point of entry would eliminate this confusion. If the Commission received all documents, it would transmit on a daily basis file copies to the Secretary of the Senate and the Clerk of the House, as appropriate. The Commission notes that the report of the Institute of Politics of the John F. Kennedy School of Government at Harvard University, An Analysis of the Impact of the Federal Election Campaign Act, 1972-78, prepared for the House Administration Committee, recommends that all reports be filed directly with the Commission (Committee Print, 96th Cong., 1st Sess., at 122 (1979)).

Insolvency of Political Committees
Section: 2 U.S.C. §433(d)

Recommendation: The Commission requests that Congress clarify its intention as to whether the Commission has a role in the determination of insolvency and liquidation of insolvent political committees. 2 U.S.C. §433(d) was amended in 1980 to read: "Nothing in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for--(A) the determination of insolvency with respect to any political committee; (B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for the reduction of outstanding debts; and (C) the termination of an insolvent political committee after such liquidation and application of assets." The phrasing of this provision ("Nothing...may be construed to...limit") suggests that the Commission has such authority in some other provision of the Act, but the Act contains no such provision. If Congress intended the Commission to have a role in determining the insolvency of political committees and the liquidation of their assets, Congress should clarify the nature and scope of this authority.

Explanation: Under 2 U.S.C. §433(d)(1), a political committee may terminate only when it certifies in writing that it will no longer receive any contributions or make any disbursements and that the committee has no outstanding debts or obligations. The Act's 1979 Amendments added a provision to the law (2 U.S.C. §433(d)(2)) possibly permitting the Commission to establish procedures for determining insolvency with respect to political committees, as well as the orderly liquidation and termination of insolvent committees. In 1980, the Commission promulgated the "administrative termination" regulations at 11 CFR 102.4 after enactment of the 1979 Amendments, in response to 2 U.S.C. §433(d)(2). However, these procedures do not concern liquidation or application of assets of insolvent political committees.

Prior to 1980, the Commission adopted "Debt Settlement Procedures" under which the Commission reviews proposed debt settlements in order to determine whether the settlement will result in a potential violation of the Act. If it does not appear that such a violation will occur, the Commission permits the committee to cease reporting that debt once the settlement and payment are reported. The Commission believes this authority derives from 2 U.S.C. §434 and from its authority to correct and prevent violations of the Act, but it does not appear as a grant of authority beyond a review of the specific debt settlement request, to order application of committee assets.

It has been suggested that approval by the Commission of the settlement of debts owed by political committees at less than face value may lead to the circumvention of the limitations on

contributions specified by 2 U.S.C. §§441a and 441b. The amounts involved are frequently substantial, and the creditors are often corporate entities. Concern has also been expressed regarding the possibility that committees could incur further debts after settling some, or that a committee could pay off one creditor at less than the dollar value owed and subsequently raise additional funds to pay off a "friendly" creditor at full value.

When clarifying the nature and scope of the Commission's authority to determine the insolvency of political committees, Congress should consider the impact on the Commission's operations. An expanded role in this area might increase the Commission's workload, thus requiring additional staff and funds.

Waiver Authority
Section: 2 U.S.C. §434

Recommendation: Congress should give the Commission authority to grant general waivers or exemptions from the reporting requirements of the Act for classifications and categories of political committees.

Explanation: In cases where reporting requirements are excessive or unnecessary, it would be helpful if the Commission had authority to suspend the reporting requirements of the Act. For example, the Commission has encountered several problems relating to the reporting requirements of authorized committees whose respective candidates were not on the election ballot. The Commission had to consider whether the election-year reporting requirements were fully applicable to candidate committees operating under one of the following circumstances:

- o The candidate withdraws from nomination prior to having his or her name placed on the ballot.
- o The candidate loses the primary and therefore is not on the general election ballot.
- o The candidate is unchallenged and his or her name does not appear on the election ballot.

Moreover, a Presidential primary candidate who has triggered the $100,000 threshold but who is no longer actively seeking nomination should be able to reduce reporting from a monthly to a quarterly schedule.

In some instances, the reporting problems reflect the unique features of certain State election procedures. A waiver authority would enable the Commission to respond flexibly and fairly in these situations.

In the 1979 Amendments to the Act, Congress repealed 2 U.S.C. §436, which had provided the Commission with a limited waiver authority. There remains, however, a need for a waiver authority. It would enable the Commission to reduce needlessly burdensome disclosure requirements.

Campaign-Cycle Reporting
Section: 2 U.S.C. §434

Recommendation: Congress should revise the law to require authorized candidate committees to report on a campaign-to-date basis, rather than a calendar year cycle, as is now required.

Explanation: Under the current law, a reporter or researcher must compile the total figures from several year-end reports in order to determine the true costs of a committee. In the case of Senate campaigns, which may extend over a six-year period, this change would be particularly helpful.

Monthly Reporting for Congressional Candidates
Section: 2 U.S.C. §434(a)(2)

Recommendation: The principal campaign committee of a Congressional candidate should have the option of filing monthly reports in lieu of quarterly reports.

Explanation: Political committees, other than principal campaign committees, may choose under the Act to file either monthly or quarterly reports during an election year. Committees choose this option when they have a high volume of activity. Under those circumstances, accounting and reporting are easier on a monthly basis because fewer transactions have taken place during that time. Consequently, the committee's reports will be more accurate.

Principal campaign committees can also have a large volume of receipts and expenditures. This is particularly true with Senatorial campaigns. These committees should be able to choose a more frequent filing schedule so that their reporting covers less activity and is easier to do.

Monthly Reports
Section: 2 U.S.C. §434(a)(3)(B) and (a)(4)(B)

Recommendation: Congress should consider changing the reporting deadline for monthly filers to some earlier date in the month.

Explanation: Throughout the years, reporters and the public have indicated they would like to see financial data earlier than 20 days after the close of books. In the fast-paced Presidential primary period, in particular, by the time the 20-day report is filed, it is already out of date. In some cases, several primary elections have even passed during this interim. An earlier report would give the public more timely information without unnecessarily burdening the staff of political committees.

Reporting Payments to Persons Providing Goods and Services
Section: 2 U.S.C. §434(b)(5)(A), (6)(A), (6)(B)

Recommendation: The current statute requires reporting "the name and address of each...person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure." Congress should clarify whether this is meant, in all instances, to require reporting committees to disclose only the payments made by the committee or whether, in some instances, 1) the reporting committees must require initial payees to report, to the committees, their payments to secondary payees, and 2) the reporting committees, in turn, must maintain this information and disclose it to the public by amending their reports through memo entries.

Explanation: The Commission has encountered on several occasions the question of just how detailed a committee's reporting of disbursements must be. See, e.g., Advisory Opinion 1983-25, 1 Fed. Election Camp. Fin. Guide (CCH), para. 5742 (Dec. 22, 1983) (Presidential candidate's committee not required to disclose the names, addresses, dates or amounts of payments made by a general media consultant retained by the committee); Advisory Opinion 1984-8, 1 Fed. Election Camp. Fin. Guide (CCH), para. 5756 (Apr. 20, 1984) (House candidate's committee only required to itemize payments made to the candidate for travel and subsistence, not the payments made by the candidate to the actual providers of services); Financial Control and Compliance Manual for General Election Candidates Receiving Public Financing, Federal Election

Commission, pp. IV 39-44 (1984) (Distinguishing committee advances or reimbursements to campaign staff for travel and subsistence from other advances or reimbursements to such staff and requiring itemization of payments made by campaign staff only as to the latter). Congressional intent in this area is not expressly stated, and the Commission believes that statutory clarification would be beneficial. In the area of Presidential public financing, where the Commission is responsible for monitoring whether candidate disbursements are for qualified campaign expenses (see 26 U.S.C. §§9004(c) and 9038(b)(2)), guidance would be particularly useful.

Verifying Multicandidate Committee Status
Section: 2 U.S.C. §§438(a)(6)(C), 441a(a)(2) and 441a(a)(4)

Recommendation: Congress should consider modifying those provisions of the Act relating to multicandidate committees in order to reduce the problems encountered by contributor committees in reporting their multicandidate committee status, and by candidate committees and the Commission in verifying the multicandidate committee status of contributor committees. In this regard, Congress might consider requiring political committees to notify the Commission once they have satisfied the three criteria for becoming a multicandidate committee, namely, once a political committee has been registered for not less than 6 months, has received contributions from more than 50 persons and has contributed to at least 5 candidates for Federal office.

Explanation: Under the current statute, political committees may not contribute more than $1,000 to each candidate, per election, until they qualify as a multicandidate committee, at which point they may contribute up to $5,000 per candidate, per election. To qualify for this special status, a committee must meet three standards:

- o Support 5 or more Federal candidates;
- o Receive contributions from more than 50 contributors; and
- o Have been registered as a political committee for at least 6 months.

The Commission is statutorily responsible for maintaining an index of committees that have qualified as multicandidate committees. The index enables recipient candidate committees to determine whether a given contributor has in fact qualified as a multicandidate committee and therefore is entitled to contribute up to the higher limit. The Commission's Multicandidate Index, however, is not current because it depends upon information filed periodically by political committees. Committees inform the Commission that they have qualified as multicandidate committees by checking the appropriate box on their regularly scheduled report. If, however, they qualify shortly after they have filed their report, several months may elapse before they disclose their new status on the next report. With semiannual reporting in a nonelection year, for example, a committee may become a multicandidate committee in August, but the Commission's Index will not reveal this until after the January 31 report has been filed, coded and entered into the Commission's computer.

Because candidate committees cannot totally rely on the Commission's Multicandidate Index for current information, they sometimes ask the contributing committee directly whether the committee is a multicandidate committee. Contributing committees, however, are not always clear as to what it means to be a multicandidate committee. Some committees erroneously believe that they qualify as a multicandidate committee merely because they have contributed to more than one Federal candidate. They are not aware that they must have contributed to 5 or more Federal candidates and also have more than 50 contributors and have been registered for at least 6 months.

Public Disclosure at State Level
Section: 2 U.S.C. §439

Recommendation: Congress should consider relieving both political committees and State election offices of the burdens inherent in the current requirement that political committees file copies of their reports with the Secretaries of State. One way this could be accomplished is by providing a system whereby the Secretary of State (or equivalent State officer) would tie into the Federal Election Commission's computerized disclosure data base.

Explanation: At the present time, political committees are required to file copies of their reports (or portions thereof) with the Secretary of State in each of the States in which they support a candidate. State election offices carry a burden for storing and maintaining files of these reports. At the same time, political committees are burdened with the responsibility of making multiple copies of their reports and mailing them to the Secretaries of State.

With advances in computer technology, it is now possible to facilitate disclosure at the State level without requiring duplicate filing. Instead, State election offices could tie into the FEC's computer data base. The local press and public could access reports of local political committees through a computer hookup housed in their State election offices. All parties would benefit: Political committees would no longer have to file duplicate reports with State offices; State offices would no longer have to provide storage and maintain files; and the FEC could maximize the cost effectiveness of its existing data base and computer system.

Such a system has already been tested in a pilot program and proven inexpensive and effective.

ENFORCEMENT

Modifying "Reason to Believe" Finding
Section: 2 U.S.C. §437g

Recommendation: Congress should consider modifying the language pertaining to "reason to believe," contained in 2 U.S.C. §437g, in order to reduce the confusion sometimes experienced by respondents, the press and the public. One possible approach would be to change the statutory language from "the Commission finds reason to believe a violation of the Act has occurred" to "the Commission finds reason to believe a violation of the Act may have occurred." Or Congress may wish to use some other less invidious language.

Explanation: Under the present statute, the Commission is required to make a finding that there is "reason to believe a violation has occurred" before it may investigate. Only then may the Commission request specific information from a respondent to determine whether, in fact, a violation has occurred. The statutory phrase "reason to believe" is misleading and does a disservice to both the Commission and the respondent. It implies that the Commission has evaluated the evidence and concluded that the respondent has violated the Act. In fact, however, a "reason to believe" finding simply means that the Commission believes a violation may have occurred if the facts as described in the complaint are true. An investigation permits the Commission to evaluate the validity of the facts as alleged.

If the problem is, in part, one of semantics, it would be helpful to substitute words that sound less accusatory and that more accurately reflect what, in fact, the Commission is doing at this early phase of enforcement.

In order to avoid perpetuating the erroneous conclusion that the Commission believes a respondent has violated the law everytime it finds "reason to believe," the statute should be amended.

Seeking Injunctions in Enforcement Cases
Section: 2 U.S.C. §437g(a)(1)

Recommendation:* Congress should amend the enforcement procedures set forth in the statute so as to empower the Commission to promptly initiate a civil suit for injunctive relief in order to preserve the status quo when there is clear and convincing evidence that a substantial violation of the Act is about to occur. Under criteria expressly stated, the Commission should be authorized to initiate such civil action in a United States district court without awaiting expiration of the 15 day period for responding to a complaint or the other administrative steps enumerated in the statute. The person against whom the Commission brought the action would enjoy the procedural protections afforded by the courts.

Explanation: On certain occasions in the heat of the campaign period, the Commission has been provided with information indicating that a violation of the Act is about to occur (or be repeated) and yet, because of the administrative steps set forth in the statute, has been unable to act swiftly and effectively in order to prevent the violation from occurring. In some instances the evidence of a violation has been clearcut and the potential for an impact on a campaign or campaigns has been substantial. The Commission has felt constrained from seeking immediate judicial action by the requirements of the statute which mandate that a person be given 15 days to respond to a complaint, that a General Counsel's brief be issued, that there be an opportunity

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*Commissioner Elliott filed the following dissent: The Act presently enables the Commission to seek injunctive relief after the administrative process has been completed and this is more than sufficient. (See 2 U.S.C. §437g(a)(6)(A)).

I am unaware of any complaint filed with the Commission during the last three years which, in my opinion, would meet the four standards set forth in the legislative recommendation. Assuming a case was submitted which met these standards, I believe it would be inappropriate for the Commission to seek injunctive relief prior to a probable cause finding.

First, the very ability of the Commission to seek an injunction, especially during the "heat of the campaign," opens the door to allegations of an arbitrary and politically motivated enforcement action by the Commission. The Commission's decision to seek an injunction in one case while refusing to do so in another could easily be seen by candidates and respondents as politicizing the enforcement process.

Second, the Commission might easily be flooded with requests for injunctive relief for issues such as failure to file an October quarterly or a 12-day pre-general report. Although the Commission would have the discretion to deny all these requests for injunctive relief, in making that decision the Commission would bear the administrative burden of an immediate review of the factual issues.

Third, although the courts would be the final arbiter as to whether or not to grant an injunction, the mere decision by the Commission to proceed to seek an injunction during the final weeks of a campaign would cause a diversion of time and money and adverse publicity for a candidate during the most important period of the campaign.

For these reasons, I disagree with the recommendation to expand the power of the Commission to seek injunctive relief except as presently provided for in the Act.

to respond to such brief, and that conciliation be attempted before court action may be initiated. The courts have indicated that the Commission has little if any discretion to deviate from the administrative procedures of the statute. In re Carter-Mondale Reelection Committee, Inc., 642 F.2d 538 (D.C. Cir. 1980); Common Cause v. Schmitt, 512 F. Supp. 489 (D.D.C. 1980), aff'd by an equally divided court, 455 U.S. 129 (1982); Durkin for U.S. Senate v. FEC, 2 Fed. Elec. Camp. Fin. Guide (CCH) para. 9147 (D.N.H. 1980). The Commission suggests that the standards that should govern whether it may seek prompt injunctive relief (which could be set forth in the statute itself) are:

1. There is a substantial likelihood that the facts set forth a potential violation of the Act;
2. Failure of the Commission to act expeditiously will result in irreparable harm to a party affected by the potential violation;
3. Expeditious action will not result in undue harm or prejudice to the interests of other persons; and
4. The public interest would be served by expeditious handling of the matter.

PUBLIC FINANCING

Fundraising Limitation for Publicly Financed Presidential Primary Campaigns
Section: 2 U.S.C. §§431(9)(A)(vi) and 441a

Recommendation: The Commission recommends that the separate fundraising limitation provided to publicly financed Presidential primary campaigns be combined with the overall limit. Thus, instead of a candidate's having a $10 million (plus COLA*) limit for campaign expenditures and a $2 million (plus COLA) limit for fundraising (20 percent of overall limit), each candidate would have one $12 million (plus COLA) limit for all campaign expenditures.

Explanation: Campaigns that have sufficient funds to spend up to the overall limit usually allocate some of their expenditures to the fundraising category. These campaigns come close to spending the maximum permitted under both their overall limit and their special fundraising limit. Hence, by combining the two limits, Congress would not substantially alter spending amounts or patterns. For those campaigns which do not spend up to the overall expenditure limit, the separate fundraising limit is meaningless. Many smaller campaigns do not even bother to use it, except in one or two States where the expenditure limit is low, e.g., Iowa and New Hampshire. Assuming that the State limitations are eliminated or appropriately adjusted, this recommendation would have little impact on the election process.

The advantages of the recommendation, however, are substantial. They include a reduction in accounting burdens and a simplification in reporting requirements for campaigns, and a reduction in the Commission's auditing task.

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*Spending limits are increased by the cost-of-living adjustment (COLA), which the Department of Labor calculates annually.

State Expenditure Limits for Publicly Financed Presidential Primary Campaigns
Section: 2 U.S.C. §441a

Recommendation: The Commission recommends that the State-by-State limitations on expenditures for publicly financed Presidential primary candidates be eliminated.

Explanation: The Commission has now seen three Presidential elections under the State expenditure limitations. Based on our experience, we believe that the limitations could be removed with no material impact on the process.

Our experience has shown that the limitations have little impact on campaign spending in a given State, with the exception of Iowa and New Hampshire. In most other States, campaigns are unable or do not wish to expend an amount equal to the limitation. In effect, then, the administration of the entire program results in limiting disbursements in these two primaries alone.

If the limitations were removed, the level of disbursements in these States would obviously increase. With an increasing number of primaries vying for a campaign's limited resources, however, it would not be possible to spend very large amounts in these early primaries and still have adequate funds available for the later primaries. Thus, the overall national limit would serve as a constraint on State spending, even in the early primaries. At the same time, candidates would have broader discretion in the running of their campaigns.

Our experience has also shown that the limitations have been only partially successful in limiting expenditures in the early primary States. The use of the fundraising limitation, the compliance cost exemption, the volunteer service provisions, the unreimbursed personnel travel expense provisions, the use of a personal residence in volunteer activity exemption, and a complex series of allocation schemes have developed into an art which when skillfully practiced can partially circumvent the State limitations.

Finally, the allocation of expenditures to the States has proven a significant accounting burden for campaigns and an equally difficult audit and enforcement task for the Commission.

Given our experience to date, we believe that this change to the Act would be of substantial benefit to all parties concerned.

Deposit of Repayments
Section: 26 U.S.C. §9007(d)

Recommendation: Congress should revise the law to state that: All payments received by the Secretary of the Treasury under subsection (b) shall be deposited by him or her in the Presidential Election Campaign Fund established by section 9006(a).

Explanation: This change would allow the Fund to recapture monies repaid by convention-related committees of national major and minor parties, as well as by general election grant recipients. Currently the Fund recaptures only repayments made by primary matching fund recipients.

EXPENDITURE LIMITS

Certification of Voting Age Population Figures and Cost-of-Living Adjustment
Section: 2 U.S.C. §§441a(c) and 441a(e)

Recommendation: Congress should consider removing the requirement that the Secretary of Commerce certify to the Commission the

voting age population of each Congressional district. At the same time, Congress should establish a deadline of February 15 for supplying the Commission with the remaining information concerning the voting age population for the nation as a whole and for each state. In addition, the same deadline should apply to the Secretary of Labor, who is required under the Act to provide the Commission with figures on the annual adjustment to the cost-of-living index.

Explanation: In order for the Commission to compute the coordinated party expenditure limits and the State-by-State expenditure limits for Presidential candidates, the Secretary of Commerce certifies the voting age population of the United States and of each State. 2 U.S.C. §441a(e). The certification for each Congressional district, also required under this provision, is not needed.

In addition, under 2 U.S.C. §441a(c), the Secretary of Labor is required to certify the annual adjustment in the cost-of-living index. In both instances, the timely receipt of these figures would enable the Commission to inform political committees of their spending limits early in the campaign cycle. Under present circumstances, where no deadline exists, the Commission has sometimes been unable to release the spending limit figures before June.

CONTRIBUTIONS

Election Period Limitations
Section: 2 U.S.C. §441a

Recommendation: The Commission recommends that limits on contributions to candidates be placed on an election-cycle basis, rather than the current per-election basis.

Explanation: The contribution limitations affecting contributions to candidates are structured on a "per-election" basis, thus necessitating dual bookkeeping or the adoption of some other method to distinguish between primary and general election contributions. The Act could be simplified by changing the contribution limitations from a "per-election" basis to an "election-cycle" basis. Thus, multicandidate committees could give up to $10,000 and all other persons could give up to $2,000 to an authorized committee at any point during the election cycle.

Application of Contribution Limitations to Family Members
Section: 2 U.S.C. §441a

Recommendation: The Commission recommends that Congress examine the application of the contribution limitations to immediate family members.

Explanation: Under the current posture of the law, a family member is limited to contributing $1,000 per election to a candidate. This limitation applies to spouses and parents, as well as other immediate family members. (See S. Conf. Rep. No. 93-1237, 93rd Cong., 2nd Sess., 58 (1974) and Buckley v. Valeo, 424 U.S. 1, 51 (footnote 57) (1976).) This limitation has caused

the Commission substantial problems in attempting to implement and enforce the contribution limitations.*

Problems have arisen in enforcing the limitations where a candidate uses assets belonging to a parent. In some cases, a parent has made a substantial gift to his or her candidate-child while cautioning the candidate that this may well decrease the amount which the candidate would otherwise inherit upon the death of the parent.

The Commission recommends that Congress consider the difficulties arising from application of the contribution limitations to immediate family members.

Foreign Nationals
Section: 2 U.S.C. §441e

Recommendation: Congress should examine the §441e prohibition on contributions by foreign nationals in connection with United States elections -- Federal, State and local. In particular, Congress should consider three issues:

1. Whether or not an American subsidiary of a foreign corporation should be allowed to make contributions directly (to State and local candidates) or to establish a separate segregated fund (SSF); and, if it does form an SSF, whether the activities of the SSF should be subject to special restrictions;

2. Whether or not the statutory prohibition on contributions by foreign nationals is meant to cover volunteer activity by foreign nationals as well; and

3. Whether or not the Act should continue to prohibit contributions by foreign nationals in connection with State and local elections.

Explanation: These questions have presented problems for the Commission and candidates, particularly since the legislative history is unclear in this area.

Several issues have arisen during the Commission's administration of this provision. First, the law, as interpreted by Commission advisory opinions, permits an American subsidiary of a foreign registered corporation to influence elections either through direct contributions to State and local elections or by forming a separate segregated fund that supports Federal candidates. With regard to SSFs established by American subsidiaries, Commission advisory opinions have stipulated that the foreign corporate parent may not be the direct or indirect source of contributions; nor may it influence the SSF's decisions or exercise any control over the SSF. Further, the opinions have reiterated the law's requirement that only U.S. citizens (and individuals holding green cards) may contribute to the SSF.

In another advisory opinion, the Commission has interpreted the Act to mean that a foreign national may not volunteer his services to a campaign. The standard under Section 441e bars contributions by a foreign national that are "in connection with" (rather than "for the purpose of influencing") a Federal election. It is unclear whether this distinction is intended to create a broader prohibition in the case of foreign nationals than for other activities under the Act.

Finally, the Commission has recognized that it is difficult to enforce this provision with respect to State and local elections. Since only Federal candidates and committees report to the Commission, it is difficult for a Federal agency to monitor campaign financial activity affecting State and local elections.

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*While the Commission has attempted through regulations to present an equitable solution to some of these problems (see 48 Fed. Reg. 19019 (April 27, 1983) as prescribed by the Commission on July 1, 1983), statutory resolution is required in this area.

Acceptance of Cash Contributions
Section: 2 U.S.C. §441g

Recommendation: Congress may wish to modify the statute to make the treatment of 2 U.S.C. §441g, concerning cash contributions, consistent with other provisions of the Act. As currently drafted, 2 U.S.C. §441g prohibits only the making of cash contributions which, in the aggregate, exceed $100 per candidate, per election. It does not address the issue of accepting cash contributions. Moreover, the current statutory language does not plainly prohibit cash contributions in excess of $100 to political committees other than authorized committees of a candidate.

Explanation: Currently this provision focuses only on persons making the cash contributions. However, these cases generally come to light when a committee has accepted these funds. Yet the Commission has no recourse with respect to the committee in such cases. This can be a problem, particularly where primary matching funds are received on the basis of such contributions.

While the Commission, in its regulations at 11 CFR 110.4(c)(2), has included a provision requiring a committee receiving such a cash contribution to promptly return the excess over $100, the statute does not explicitly make acceptance of these cash contributions a violation. The other sections of the Act dealing with prohibited contributions (i.e., Sections 441b on corporate and labor union contributions, 441c on contributions by government contractors, 441e on contributions by foreign nationals, and 441f on contributions in the name of another) all prohibit both the making and accepting of such contributions.

Secondly, the statutory text seems to suggest that the prohibition contained in §441g applies only to those contributions given to candidate committees. This language is at apparent odds with the Commission's understanding of the Congressional purpose to prohibit any cash contributions which exceed $100 in Federal elections.

FRAUDULENT MISREPRESENTATION

Fundraising Projects Operated by Unauthorized Committees
Section: 2 U.S.C. §432(e)(4)

Recommendation:* Congress may wish to consider amending the statute, at 2 U.S.C. §432(e)(4), to clarify that a political

*Commissioner Elliott filed the following dissent:
I support the policy underlying this legislative recommendation and recognize the seriousness of the problem necessitating such a recommendation. However, the scope of the recommendation is far too broad and inflexible given the traditional fundraising events, especially those held by political parties and some unauthorized political committees. Party committees are not authorized committees and therefore would come under the general prohibitions included in the recommendation, precluding the use of a candidate's name for any activity of a party committee. Oftentimes, however, fundraising events conducted by a party committee incorporate the name of a well-known Member of Congress as a fundraising tool. Typically, the fundraising contributions are made in the form of checks made payable to the name of the event, e.g., "Happy Birthday, Senator Smith"; "Mike's Annual Barbecue"; "Sail With Senator Sanford"; "Roast Roberts." I do not believe Congress intends to preclude the use of the candidates' names in such activities, especially when the candidate is not only aware that his/her name is being used but approves and is actively participating in the event.

committee that is not an authorized committee of any candidate may not use the name of a candidate in the name of any "project" or other fundraising activity of such committee.

Explanation: The statute now reads that a political committee that is not an authorized committee "shall not include the name of any candidate in its name [emphasis added]." In certain situations presented to the Commission the political committee in question has not included the name of any candidate in its official name as registered with the Commission, but has nonetheless carried out "projects" in support of a particular candidate using the name of the candidate in the letterhead and text of its materials. The likely result has been that recipients of communications from such political committees were led to believe that the committees were in fact authorized by the candidate whose name was used. The requirement that committees include a disclaimer regarding nonauthorization (2 U.S.C. §441d) has not proven adequate under these circumstances.

The Commission believes that the intent behind the current provision is circumvented by the foregoing practice. Accordingly, the statute should be revised to clarify that the use of the name of a candidate in the name of any "project" is also prohibited.

Fraudulent Solicitation of Funds
Section: 2 U.S.C. §441h

Recommendation: The current §441h prohibits fraudulent misrepresentation such as speaking, writing or acting on behalf of a candidate or committee on a matter which is damaging to such candidate or committee. It does not, however, prohibit persons from fraudulently soliciting contributions. A provision should be added to this section prohibiting persons from fraudulently misrepresenting themselves as representatives of candidates or political parties for the purpose of soliciting contributions which are not forwarded to or used by or on behalf of the candidate or party.

Explanation: The Commission has received a number of complaints charging that substantial amounts of money were raised fraudulently by persons or committees purporting to act on behalf of candidates. Candidates have complained that contributions which people believed were going for the benefit of the candidate were diverted for other purposes. Both the candidates and the contributors were harmed by such diversion. The candidates received less money because people desirous of contributing believed they had already done so, and the contributors' funds had been misused in a manner in which they did not intend. The Commission has been unable to take any action on these matters because the statute gives it no authority in this area.

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* (footnote continued)

I would propose that the candidate be entitled to authorize the use of his or her name for such an event or activity provided the authorization is written. Again, I recognize the seriousness and the need to address this issue; however, Congress should not exclude fundraising tools which have been traditionally used by political committees.

Further, the impact of this recommendation has not been evaluated in the context of our brand-new joint fundraising regulations.

HONORARIA

Technical Amendments
Section: 2 U.S.C. §§431(8)(B)(xiv) and 441i

Recommendation: The Commission offers two suggestions concerning honoraria.

1. Section 441i should be placed under the Ethics in Government Act.

2. As technical amendments, Sections 441i(c) and (d), which pertain to the annual limit on receiving honoraria (now repealed), should be repealed. Additionally, 2 U.S.C. §431(8)(B)(xiv), which refers to the definition of honorarium in Section 441i, should be modified to contain the definition itself.

Explanation: Congress eliminated the $25,000 annual limit on the amount of honoraria that could be accepted, but it did not take out these two sections, which only apply to the $25,000 limit. This clarification would eliminate confusion for officeholders and thereby help the Commission in its administration of the Act.

COMMISSION INFORMATION SERVICES

Budget Reimbursement Fund
Section: 2 U.S.C. §438

Recommendation:

1. The Commission recommends that Congress establish a reimbursement account for the Commission so that expenses incurred in preparing copies of documents, publications and computer tapes sold to the public are recovered by the Commission. Similarly, costs awarded to the Commission in litigation (e.g., printing, but not civil penalties) and payments for Commission expenses incurred in responding to Freedom of Information Act requests should be payable to the reimbursement fund. The Commission should be able to use such reimbursements to cover its costs for these services, without fiscal year limitation, and without a reduction in the Commission's appropriation.

2. The Commission recommends that costs be recovered for FEC Clearinghouse seminars, workshops, research materials and other services, and that reimbursements be used to cover some of the costs of these activities, including costs of development, production, overhead and other related expenses.

Explanation: At the present time, copies of reports, microfilm, and computer tapes are sold to the public at the Commission's cost. However, instead of the funds being used to reimburse the Commission for its expenses in producing the materials, they are credited to the U.S. Treasury. The effect on the Commission of selling materials is thus the same as if the materials had been given away. The Commission absorbs the entire cost. In FY 1983, in return for services and materials it offered the public, the FEC collected and transferred $91,969 in miscellaneous receipts to the Treasury. In FY 1984, the amount was $86,984 and during the first three months of FY 1985, $22,111 was transferred to the Treasury. Establishment of a reimbursement fund, into which fees for such materials would be paid, would permit this money to be applied to further dissemination of information. Note, however, that a reimbursement fund would not be applied to the distribution of FEC informational materials to candidates and registered political committees. They would continue to receive free publications that help them comply with the Federal election laws.

There is also the possibility that the Commission could recover costs of FEC Clearinghouse workshops and seminars, research materials, and reports that are now sold by the Government Printing Office and the National Technical Information Service. Approximately $15,000 was collected in FY 1981 by GPO and NTIS on account of sales of Clearinghouse documents.

There should be no restriction on the use of reimbursed funds in a particular year to avoid the possibility of having funds lapse.

March 20, 1987

MEMORANDUM

TO: The Commission

FROM: John C. Surina
Staff Director

SUBEJCT: Revised Cost Analysis on S.2 - The Boren/Byrd Bill

In response to a request by the Congressional Budget Office, and the Commisison discussion on March 12, 1987, staff have developed a final price tag for the Boren/Byrd Bill. Doing so required no little imagination and judgment since we had to develop the assumptions, project the workload, and calculate the incremental costs to address that work.

The primary assumptions under which we set off were; first, that the bill is enacted into law as currently drafted; and second, that it becomes law in time for application to the 1988 elections. Those guideposts gave us concrete provisions and real Senatorial contests with which to work. A total of 19 assumptions govern the calculation of the FEC's administrative costs. All administrative costs are assumed on top of, and not a diversion from, the costs we expect to incur in overseeing the 1988 election cycle without new legislation.

Developing the hypothetical dollar amount of public funding required fewer assumptions because, while complex, it is essentially the operation of a mathematical formula.

To deflect any unwarranted charges that this analysis lacks objectivity or is not properly thought out, we have made all assumptions explicit. Should anyone subsequently wish to play with the workload assumptions, we can adjust the costs accordingly. Most of the raw analysis flowed up from the line divisions and offices. Jim Pehrkon, John O'Brien and I then exercised a top down review of that input to assure that all elements were addressing their functions with a similar level of effort.

Three separate costs were calculated. Maximum payouts from the Senate fund; $89.8 million had the formula been applied to the 1986 cycle and $92.5 million projected for 1988. One-time administrative costs to develop the rules and internal procedures to implement the law; $230,750 incurred in fiscal 1988. Finally, we projected on-going operational costs over the two-year cycle using the 1988 elections as our context. The continuing costs for the first year of the cycle were put at $281,000 (fiscal 1988) and the second year at $890,600 (fiscal 1989). Our peak staffing, i.e., second year, would increase by 22 full time equivalents.

Total administrative costs are projected at $1,402,350 and 34.5 FTE for the first two-year cycle.

Even though an exercise such as this is necessarily conjectural, I feel comfortable with the analysis and the manner in which it is set forth. Hypothetical as these projections may be, they will be viewed as an agency input into the legislative process and I thus seek your concurrence to the revised estimates on a no-objection basis.

Attachments

Workload Assumptions For S2

1. The 1988 Senate elections are used as the basis for the cost analysis.

2. All major party candidates (66) will receive public funding.

3. At least 1 minor party candidate will qualify for public funding.

4. All major party candidates will qualify with the minimum threshold amount, thereby maximizing their federal funding.

5. No candidate will receive additional payments as a consequence of independent expenditure activity which exceeds $25,000. This is not based upon 1986 election data or experience, but assumes the sanctions will discourage such expenditures. (A total of $3,462,868 was spent independently during the 1985-86 election cycle for or against Senate candidates in instances where at least $25,000 was spent for or against a single candidate by a single committee or person).

6. Candidates will be self-certified as meeting the qualification requirements for Public Financing within 48 hours of receipt by the Commission of appropriate documentation. The Commission assumes that S-2 as written precludes the depth and type of pre-certification review possible currently under Title 26 for Presidential candidates.

7. Subsequently, each of the 67 threshold submissions will be subjected to a 100 percent review.

8. 9 randomly selected candidate committees will be audited (8 major party candidate committees and 1 minor party candidate committee). Read S-2 to mean 10 percent of candidates in each party; 3.3 rounded up to 4 in each major party).

9. 3 additional 438(b) and/or 437(g) audits will be conducted.

10. At least 400 House and Senate candidates will approach the PAC spending limit.

11. PAC limit provisions will generate 20 additional external complaints and 10 additional internal referrals.

12. Public Financing provisions will generate 4 additional external complaints and 9 additional internal referrals.

13. Commission workload associated with the 1988 Senate primary campaigns will approximate the workload for both the primary and general election in 1986.

14. General election funds for 1988 Senate campaigns will be maintained in accounts separate from primary funds, these general election funds will be administered by a separate general election committee and general election activity will be reported separately from primary activity.

15. All independent expenditure activity will be reported separately. Committees making both contributions and independent expenditures will separately report each type of activity.

16. PAC limits and Public Financing provisions will generate at least 20 Advisory Opinion requests.

17. Computerization of PAC contributions will be expedited in order to monitor PAC limits and to enhance Public Disclosure.

18. There will be a reduction of the threshold for reporting disbursement activity in order to more fully disclose the purpose for which public funds were used.

19. Information categorizing and identifying detailed disbursement transactions will be computerized for the purpose of enhancing Public Disclosure. Types of transactions and thresholds need to be determined.

ADMINISTRATIVE COSTS OF S-2 BY PROJECT
(in Dollars) 3/20/87

PROJECT	DIVISION	PERSONNEL	NON-PERS.	TOTAL
1.) Revise Commission Regulations due to S-2. (one-time costs)	OGC			
	3.5 FTE	117,250	0	117,250
	Printing	0	40,000	40,000
	TOTAL:	117,250	40,000	157,250
2.)Conduct audits of 10% sample of campaigns. Review all audits performed. (on-going: 9 audits per cycle)	Audit			
	8.0 FTE	224,000	0	224,000
	Travel	0	64,800	64,800
	OGC			
	2.0 FTE	67,000	0	67,000
	TOTAL:	291,000	64,800	355,800
3.) Prepare manual and procedures for qualifing for federal funds and audit program. (one-time)	Audit			
	1.0 FTE	33,500	0	33,500
	Printing	0	1,000	1,000
	TOTAL:	33,500	1,000	34,500
4.)Process Disclosure documents due to changes in reporting requirements. (on-going: no cost; washes with reductions.)	Disclosure			
	0 FTE	0	0	0
5.)Handle increase in requests for information (on-going)	Information			
	0 FTE	0	0	0
6.) Revise publications to cover S-2. (Printing and travel-for seminars-covered in basic budget; staff for rewrites.) (one-time)	Information			
	1.0 FTE	28,000	0	28,000
	Printing	0	0	0
	TOTAL:	28,000	0	28,000
7.)Handle increase in requests for information (on-going)	Press Office			
	0 FTE	0	0	0

PROJECT	DIVISION	PERSONNEL	NON-PERS.	TOTAL
8.)Process Disclosure documents due to changes in reporting requirements. (on-going: no cost; washes with reductions.)	**Data Systems** 0 FTE	0	0	0
9.) Process pass III (itemized) data coding and entry in 2 weeks after receipt at FEC for all committee contributions and Independ. Expend. (Assume all I.E. filed on separate form.) (Assume all Senate General reports filed by a separate committee if receive federal funds.) (Review all reports and enforce all PAC limits in S-2 using new speedier data entry.) (on-going)	**Data Systems** 2.0 FTE (coders) **RAD** 1.0 FTE (review) **OGC** 4.5 FTE (enfor.) (20 complaints) (10 referrals) TOTAL:	41,000 33,500 150,750 **225,250**	0 0 0 **0**	41,000 33,500 150,750 **225,250**
10.) Code and enter selected itemized expenditure data on general election reports; assume lowered threshold for reporting expenditures of federal funds. (on-going)	**Data Systems** 1.0 FTE (coder) Data Entry Contr. TOTAL:	18,500 0 **18,500**	0 150,000 **150,000**	18,500 150,000 **168,500**
11.) Enforce and police all provisions of S-2, including filing provisions i.e. non-filers. Includes 438(b) and 437G Audits. (on-going)	**OGC** 2.5 FTE (enfor.) 1.0 FTE (litig.) (4 complaints) (9 referrals) **Audit** 2.0 FTE (audit.) 1.0 FTE (mngr.) (3 Audits) Travel TOTAL:	83,750 40,000 56,000 48,000 0 **227,750**	0 0 0 0 24,300 **24,300**	83,750 40,000 56,000 48,000 24,300 **252,050**
12.) Review all Threshhold submissions for federal funds for complete compliance. (on-going)	**Audit** 4.0 FTE	**112,000**	**0**	**112,000**
13.) Basic overhead expenses. Supplies, etc.	**FEC Total**	**0**	**69,000**	**69,000**
	GRAND TOTAL	**1,053,250**	**349,100**	**1,402,350**

ADMINISTRATIVE COSTS OF S-2 BY PROJECT BY YEAR (in Dollars) 3/20/87		ONE-TIME FIRST YEAR (FY 1988)	ON-GOING FIRST YEAR (FY 1988)	ON-GOING SECOND YEAR (FY 1989)	ON-GOING BOTH YEARS (FY 1988-89)	TOTAL COSTS TWO YEAR CYCLE (FY 1988-89)
PROJECT NUMBER						
1.) Revise regulations. OGC		3.5 FTE 157,250				157,250
2.) Audit 10% of campaigns, legal review of all audits. Audit(8.0 FTE), OGC(2.0FTE)				10.0 FTE 355,800	10.0 FTE 355,800	10.0 FTE 355,800
3.) Prepare General election manual for all committees receiving federal funds. Audit		1.0 FTE 34,500				1.0 FTE 34,500
4.) Process Disclosure Documents: micro-film, paper copies. Disclosure						0 FTE 0
5.) Handle general information calls. Information						0 FTE 0
6.) Revise publications. Information		1.0 FTE 28,000				1.0 FTE 28,000
7.) Handle press calls. Press						0 FTE 0
8.) Process Disclosure Documents: coding & entry for basic indeces. Data Systems						0 FTE 0
9.) Expedite detailed data entry, review, and enforce all independent Expenditure filing provisions & PAC limits; assume separate General election reports. Data, RAD, OGC	Data:		1.0 FTE 20,500	1.0 FTE 20,500	2.0 FTE 41,000	2.0 FTE 41,000
	RAD:		.5 FTE 16,750	.5 FTE 16,750	1.0 FTE 33,500	1.0 FTE 33,500
	OGC:		1.0 FTE 33,500	3.5 FTE 117,250	4.5 FTE 150,750	4.5 FTE 150,750
	TOTAL:		2.5 FTE 70,750	5.0 FTE 154,500	7.5 FTE 225,250	7.5 FTE 225,250
10.) Code & enter expenditure information; assume lower reporting threshold. Data Systems			.5 FTE 84,250	.5 FTE 84,250	1.0 FTE 168,500	1.0 FTE 168,500
11.) Enforce and police all provisions of S-2, including filing provisions (i.e. non-filers); includes 438b and 437G Audits. Audit, OGC	Audit:			3.0 FTE 128,300	3.0 FTE 128,300	3.0 FTE 128,300
	OGC:			3.5 FTE 123,750	3.5 FTE 123,750	3.5 FTE 123,750
	TOTAL:			6.5 FTE 252,050	6.5 FTE 252,050	6.5 FTE 252,050
12.) Review all Threshold submissions for federal funds prior to random audit of 10% of campaigns. Audit			4.0 FTE 112,000		4.0 FTE 112,000	4.0 FTE 112,000
13.) General overhead: supplies, etc.		11,000	14,000	44,000	58,000	69,000
GRAND TOTALS		**5.5 FTE** **230,750**	**7.0 FTE** **281,000**	**22.0 FTE** **890,600**	**29.0 FTE** **1,171,600**	**34.5 FTE** **1,402,350**

Assumptions for S2 Payouts

A. 1986 Election

1. Total expenditure limit represents the limit if all 68 candidates had participated in the federal funding program ($104.6 million).

2. Total PAC receipt limit represents the total limit for PAC contributions for all 68 Senate candidates ($22.2 million).

3. Total federal funds (maximum) represents the possible payment if all 68 candidates had met the threshold ($89.8 million).

4. Total projected federal funding is $83.5 million, assuming all candidates whose total individual contributions exceeded their threshold received federal funds. In other words, this assumes that all individual contributions for those close to their thresholds were matchable, i.e., less than $250 and 80 percent from within their state. This projection uses 1986 VAP figures, assuming the law had been in place for 1986. (seven candidates clearly would not have received federal funds in 1986).

B. 1988 Election

1. Total expenditure limit represents the limit if all 66 candidates participate in the federal funding program ($106.5 million).

2. PAC receipt limit total for all 66 candidates would be $23.2 million.

3. Total maximum federal payout for all 66 candidates if they all received federal funds would be $92.5 million.

C. General

1. All payouts are based on latest report filed and entered, usually the year-end report for 1986.

2. Data derived from FEC "L" indexes.

S-2 PAYOUTS KEY TO TABLES

Limit -	represents the total expenditure limit per candidate for the general election in each state.
PAC Limit -	represents the PAC receipt limit for each candidate in each state for the primary election.
Amount Threshold -	represents the threshold qualifying receipt total for each candidate in each state.
Actual PAC -	represents total PAC receipts for the 1986 elections (both general and primary).
Individual Contributions -	represents total individual contributions for 1986 (both general and primary).
Federal Dollars -	represents the total federal payment for each candidate in each state, assuming they receive the total receipt limit less the threshold amount in federal funds.

S2 1986 March 20, 1987

STATE	LIMIT	PAC LIMIT	AMOUNT THRESHOLD	ACTUAL PAC 1986	IND. CONTRIB. 1986	FEDERAL DOLLARS
ALABAMA	**1,326,000**	**245,000**	**250,000**			**1,076,000**
SHELBY - D				883,186	687,325	1,076,000
DENTON - R				676,320	3,883,334	1,076,000
ALASKA	**687,750**	**200,000**	**137,550**			**550,200**
MURKOWSKI-R				588,508	714,528	550,200
OLDS - D				150,772	239,199	550,200
ARIZONA	**1,178,000**	**200,000**	**235,600**			**942,400**
MCCAIN - R				774,652	1,441,325	942,400
KIMBALL - D				190,187	326,516	942,400
ARKANSAS	**1,028,250**	**200,000**	**205,650**			**822,600**
BUMPERS - D				507,419	1,132,088	822,600
HUTCHINSON-R				81,221	782,662	822,600
CALIFORNIA	**5,481,250**	**750,000**	**250,000**			**5,231,250**
CRANSTON - D				1,376,483	8,874,482	5,231,250
ZSCHAU - R				1,241,898	9,412,056	5,231,250
COLORADO	**1,191,750**	**210,000**	**238,350**			**953,400**
WIRTH - D				849,905	2,613,318	953,400
KRAMER - R				925,429	2,681,652	953,400
CONNECTICUT	**1,204,500**	**210,000**	**240,900**			**963,600**
DODD - D				626,196	1,551,211	963,600
EDDY - R				35,613	388,934	963,600
FLORIDA	**2,807,500**	**665,000**	**250,000**			**2,557,500**
GRAHAM - D				890,337	5,226,196	2,557,500
HAWKINS - R				946,605	5,349,821	2,557,500
GEORGIA	**1,679,500**	**350,000**	**250,000**			**1,429,500**
FOWLER - D				606,586	1,423,393	1,429,500
MATTINGLY - R				978,063	3,560,419	1,429,500
HAWAII	**791,000**	**200,000**	**158,200**			**632,800**
INOUYE - D				540,750	480,513	632,800
HUTCHINSON-R				3,950	10,980	0
IDAHO	**770,250**	**200,000**	**154,050**			**616,200**
SYMMS - R				1,367,677	1,860,953	616,200
EVANS - D				691,648	1,426,994	616,200
ILLINOIS	**2,709,000**	**750,000**	**250,000**			**2,459,000**
DIXON - D				986,508	1,172,677	2,459,000
KOEHLER - R				74,178	646,585	2,459,000
INDIANA	**1,598,250**	**350,000**	**250,000**			**1,348,250**
QUAYLE - R				855,641	1,356,564	1,348,250
LONG - D				53,823	60,824	0
IOWA	**1,127,750**	**210,000**	**225,550**			**902,200**
GRASSLEY - R				979,692	1,586,655	902,200
ROEHRICK - D				88,672	111,737	0
KANSAS	**1,046,250**	**200,000**	**209,250**			**837,000**
DOLE - R				1,037,824	1,298,104	837,000
MACDONALD - D				0	0	0
KENTUCKY	**1,275,750**	**245,000**	**250,000**			**1,025,750**
FORD - D				844,982	588,965	1,025,750
ANDREWS - R				3,500	31,624	0
LOUISIANA	**1,381,500**	**280,000**	**250,000**			**1,131,500**
BREAUX - D				899,673	1,752,188	1,131,500
MOORE - R				1,204,936	3,632,900	1,131,500
MARYLAND	**1,423,750**	**280,000**	**250,000**			**1,173,750**
MIKULSKI - D				664,060	1,251,935	1,173,750
CHAVEZ - R				285,253	1,339,737	1,173,750
MISSOURI	**1,525,500**	**315,000**	**250,000**			**1,275,500**
BOND - R				1,319,854	3,959,515	1,275,500
WOODS - D				776,014	3,536,589	1,275,500
NEVADA	**779,000**	**200,000**	**155,800**			**623,200**
REID - D				820,477	1,084,711	623,200
SANTINI - R				768,378	185,026	623,200
NEW HAMPSHIRE	**786,250**	**200,000**	**157,250**			**629,000**
RUDMAN - R				5,200	803,674	629,000
PEABODY - D				46,950	177,331	629,000
NEW YORK	**3,953,500**	**750,000**	**250,000**			**3,703,500**
D'AMATO - R				862,418	4,825,412	3,703,500
GREEN - D				0	1,016,700	3,703,500

STATE	LIMIT	PAC LIMIT	AMOUNT THRESHOLD	ACTUAL PAC 1986	IND. CONTRIB. 1986	FEDERAL DOLLARS
NORTH CAROLINA	**1,766,500**	**385,000**	**250,000**			**1,516,500**
SANFORD - D				571,787	2,478,344	1,516,500
BROYHILL - R				1,369,212	2,897,958	1,516,500
NORTH DAKOTA	**722,000**	**200,000**	**144,400**			**577,600**
CONRAD - D				453,490	507,904	577,600
ANDREWS - R				1,021,095	914,948	577,600
OHIO	**2,567,750**	**735,000**	**250,000**			**2,317,750**
GLENN - D				643,186	1,345,763	2,317,750
KINDNESS - R				172,648	427,964	2,317,750
OKLAHOMA	**1,194,250**	**210,000**	**238,850**			**955,400**
NICKLES - R				886,841	1,866,044	955,400
JONES - D				995,492	1,443,773	955,400
OREGON	**1,094,000**	**200,000**	**218,800**			**875,200**
PACKWOOD - R				992,517	5,194,632	875,200
BAUMAN - D				16,260	39,307	0
PENNSYLVANIA	**2,844,000**	**750,000**	**250,000**			**2,594,000**
SPECTOR - R				1,261,726	3,909,191	2,594,000
EDGAR - D				794,441	2,941,236	2,594,000
SOUTH CAROLINA	**1,206,250**	**210,000**	**241,250**			**965,000**
HOLLINGS - D				952,382	1,329,904	965,000
MCMASTER - R				49,722	443,976	965,000
SOUTH DAKOTA	**725,500**	**200,000**	**145,100**			**580,400**
DASCHLE - D				1,162,156	2,241,772	580,400
ABDNOR - R				1,082,931	2,161,695	580,400
UTAH	**857,750**	**200,000**	**171,550**			**686,200**
GARN - R				576,364	393,653	686,200
OLIVER - D				0	20,258	0
VERMONT	**698,750**	**200,000**	**139,750**			**559,000**
LEAHY - D				825,431	1,024,990	559,000
SNELLING - R				258,377	869,290	559,000
WASHINGTON	**1,407,250**	**280,000**	**250,000**			**1,157,250**
ADAMS - D				635,386	1,183,317	1,157,250
GORTON - R				1,193,293	2,020,063	1,157,250
WISCONSIN	**1,472,750**	**315,000**	**250,000**			**1,222,750**
KASTEN - R				1,099,726	1,855,680	1,222,750
GARVEY - D				459,906	766,355	1,222,750
TOTAL				44,985,807	122,765,369	83,474,900
TOTAL	104,618,000	22,190,000				**89,782,300**

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STATE	LIMIT	PAC LIMIT	AMOUNT THRESHOLD	PAC TOTAL YEAR-TO-DATE	IND. CONTR. YEAR-TO-DATE	FEDERAL DOLLARS
ARIZONA	**1,201,250**	**200,000**	**240,250**			**961,000**
						961,000
						961,000
CALIFORNIA	**5,587,250**	**750,000**	**250,000**			**5,337,250**
						5,337,250
						5,337,250
CONNECTICUT	**1,209,500**	**210,000**	**241,900**			**967,600**
						967,600
						967,600
DELAWARE	**718,750**	**200,000**	**143,750**			**575,000**
						575,000
						575,000
FLORIDA	**2,867,750**	**665,000**	**250,000**			**2,617,750**
						2,617,750
						2,617,750
HAWAII	**793,250**	**200,000**	**158,650**			**634,600**
						634,600
						634,600
INDIANA	**1,603,250**	**350,000**	**250,000**			**1,353,250**
						1,353,250
						1,353,250
MAINE	**817,750**	**200,000**	**163,550**			**654,200**
						654,200
						654,200

STATE	LIMIT	PAC LIMIT	AMOUNT THRESHOLD	PAC TOTAL YEAR-TO-DATE	IND. CONTR. YEAR-TO-DATE	FEDERAL DOLLARS
MARYLAND	1,439,750	280,000	250,000			**1,189,750**
						1,189,750
						1,189,750
MASSACHUSETTS	1,720,000	385,000	250,000			**1,470,000**
						1,470,000
						1,470,000
MICHIGAN	2,268,750	630,000	250,000			**2,018,750**
						2,018,750
						2,018,750
MINNESOTA	1,368,750	280,000	250,000			**1,118,750**
						1,118,750
						1,118,750
MISSISSIPPI	1,060,500	200,000	212,100			**848,400**
						848,400
						848,400
MISSOURI	1,533,250	315,000	250,000			**1,283,250**
						1,283,250
						1,283,250
MONTANA	747,000	200,000	149,400			**597,600**
						597,600
						597,600
NEBRASKA	888,500	200,000	177,700			**710,800**
						710,800
						710,800
NEVADA	785,000	200,000	157,000			**628,000**
						628,000
						628,000
NEW JERSEY	2,040,250	490,000	250,000			**1,790,250**
						1,790,250
						1,790,250
NEW MEXICO	855,750	200,000	171,150			**684,600**
						684,600
						684,600
NEW YORK	3,959,250	750,000	250,000			**3,709,250**
						3,709,250
						3,709,250
NORTH DAKOTA	721,000	200,000	144,200			**576,800**
						576,800
						576,800
OHIO	2,576,250	735,000	250,000			**2,326,250**
						2,326,250
						2,326,250
PENNSYLVANIA	2,857,750	750,000	250,000			**2,607,750**
						2,607,750
						2,607,750
RHODE ISLAND	787,750	200,000	157,550			**630,200**
						630,200
						630,200
TENNESSEE	1,493,000	315,000	250,000			**1,243,000**
						1,243,000
						1,243,000
TEXAS	3,548,000	750,000	250,000			**3,298,000**
						3,298,000
						3,298,000
UTAH	861,500	200,000	172,300			**689,200**
						689,200
						689,200
VERMONT	700,250	200,000	140,050			**560,200**
						560,200
						560,200
VIRGINIA	1,684,250	350,000	250,000			**1,434,250**
						1,434,250
						1,434,250
WASHINGTON	1,417,750	280,000	250,000			**1,167,750**
						1,167,750
						1,167,750
WEST VIRGINIA	953,750	200,000	190,750			**763,000**
						763,000
						763,000

STATE	LIMIT	PAC LIMIT	AMOUNT THRESHOLD	PAC TOTAL YEAR-TO-DATE	IND. CONTR. YEAR-TO-DATE	FEDERAL DOLLARS
WISCONSIN	1,477,000	315,000	250,000			1,227,000
						1,227,000
						1,227,000
WYOMING	687,000	200,000	137,400			549,600
						549,600
						549,600
TOTAL				0	0	92,446,100
TOTAL	106,461,500	23,200,000				92,446,100

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

STATEMENT OF JAMES S. DWIGHT, JR., MEMBER

ACCOMPANIED BY:
FRANKLIN A. STEINKO, JR., BUDGET AND MANAGEMENT OFFICER
JOHN KINCAID, DIRECTOR OF RESEARCH

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. Next we will hear from Mr. James S. Dwight, Jr., a member of the U.S. Advisory Commission on Intergovernmental Relations.

This is a small agency that is requesting a budget of $1,390,000 in 1988.

Mr. Dwight, I am sorry that you have had to wait so long and you are extremely patient to be with us. The hour is getting late and a vote is imminent I am told, so we will go right to your summary of your statement, if you can summarize it for us.

Mr. DWIGHT. If I could, please, Mr. Chairman. I am joined by the Commission's Research Director, John Kincaid, and Franklin Steinko, who is the Commission's Budget Officer. John Shannon asked me to apologize for his inability to be here today. He is recuperating from fairly serious surgery and his doctor indicated that he was not physically able to beat the hearing today.

APPROPRIATION REDUCTION FEARS

I would like to try to focus on one dimension of the Commission's activities by way of summarizing and then respond to your questions. Perhaps that way we can both meet your requirements and get the issue that we think is very important before the Senate Appropriations Committee.

As I am sure you are aware the Commission is under marching orders from the Congress to reduce its dependence upon appropriated funds down to a 50-percent level in rough numbers.

Fiscal year 1988 is the second year that we will be operating under that reduction. This is a course of action which the Commission agrees with, so we want to make it clear that we are supportive of that direction and feel that it is appropriate that we seek revenue, particularly out of sale of publications and other services that we provide to our State and local government constituencies, and also direct contributions from the States at a much higher level than they have contributed in the past.

We have enjoyed a fair measure of success in that regard this year, perhaps in part due to the major revisions in the income tax laws.

The word of caution that we would offer to you, Mr. Chairman, is that at some point we will reach a point of diminishing return and we will be unable to establish a sufficient level of research to interest our Commission members in attending and participating in Commission business. And for your information to make sure that you are aware of it, we have a very distinguished Commission—perhaps present company excepted—which includes four Governors, three Members of the Senate, three Members of the House, four members of the State legislature, aggregating up to 26 members.

PREPARED STATEMENT

We spend a lot of time in the Commission developing our research agenda and making sure that all of the Commission members are comfortable with what we are looking at. We do constitute historically, or at least over the last 25 years, a repository of information about the relationships that exist in programs between State and local governments. So it is a fairly valuable role that we play.

[The statement follows:]

STATEMENT OF JAMES S. DWIGHT, JR.

Thank you, Mr. Chairman. My name is James S. Dwight. It is a pleasure to be here this morning to discuss the work of the Advisory Commission on Intergovernmental Relations (ACIR). I am one of three citizen members of ACIR. Chairman Robert B. Hawkins, Jr., sends his regrets for not being able to be here today. He has designated me to present the Commission's testimony. I am grateful for this opportunity.

I would like to make three brief points about the work of the Advisory Commission on Intergovernmental Relations and its efforts to adjust to the 46 percent reduction in its appropriations, a reduction which the Congress has slated for fiscal years 1987 through 1989.

1. ACIR's Unique Vantage Point

The first is the unique vantage point occupied by the ACIR in our 200-year-old federal system. The Commission consists of 26 members. These include members of the general public, members of the Congress, officers of the executive branch of the U.S. Government, governors, mayors, state legislators, and elected county officials. Thus, ACIR is uniquely qualified to monitor our changing federal system and to analyze the many intergovernmental issues that arise each year. Indeed, because every element of the federal system is represented on the Commission, ACIR often finds itself at the center of storms generated by the national, state, and local forces that animate intergovernmental relations. Our federal system needs the forum provided by ACIR where federal, state, and local representatives can meet as equals to seek to reconcile conflicting interests and promote cooperation. Our nation has no other such forum. The value of this forum is reflected in the range of issues examined by ACIR during the past 27 years. This range has been broad as well as vital to the intergovernmental concerns of citizens and elected officials.

The Commission has published well over 300 reports. One-third of these have been policy reports containing several hundred recommendations to all three levels of government. Thirty-one of the reports were

initiated or supported by individual federal agencies, including the White House and a number of executive agencies.

Many of the Commission's recommendations have been embodied in draft federal and state legislation. The Congress, for example, has enacted Commission-supported intergovernmental consultation procedures, block grants, and the national urban policy process. ACIR was instrumental as well in building support for enactment of the Congressional fiscal note process for evaluating the financial impacts of proposed legislation on states and localities. Commission recommendations have also prompted some 120 pieces of suggested state legislation.

2. Research Program

My second point is that, despite reductions in staff and appropriations during recent years, ACIR continues to maintain a substantial program of intergovernmental relations research. The Commission's program can be divided into three categories: (1) Continual Monitoring and Information Dissemination, (2) Microcomputer Data Services, and (3) Topical Research on Current Intergovernmental Issues. A detailed summary of the research program is provided in Appendix A attached to this testimony. For now, let me simply highlight major features of the Commission's research.

Under Category I, Continual Monitoring and Information Dissemination, ACIR publishes:

- An annual compilation of governmental finance data called Significant Features of Fiscal Federalism;
- Annual Estimates of State Fiscal Capacity and Tax Effort;
- An annual public opinion poll relevant to intergovernmental relations, entitled Changing Public Attitudes on Government and Taxes;
- A periodic Catalog of Federal Grant-in-Aid Programs to State and Local Governments; and
- A quarterly magazine for more than 20,000 readers, called Intergovernmental Perspective.

Category II, Microcomputer Data Services, is a new research service inaugurated in 1985. We are very pleased with it. ACIR has produced

computer diskettes which are user friendly extensions of our long-standing print publications containing data on fiscal federalism and fiscal capacity. ACIR's first data diskettes appeared a year and a half ago in two series:

- o A state-local government finance series
- o A city/county government finance series.

Shortly, ACIR will issue a new series of microcomputer discs containing considerable data over time, including previously unpublished data, on state fiscal capacity. These diskettes will also include about 200 pre-programmed graphs designed to help users analyze and understand the data better by displaying it visually.

The diskettes are set up to take full advantage of the computational power and popularity of Lotus 1-2-3 and Symphony software so that public officials, researchers, and interested citizens can easily organize and analyze the data to suit their needs. The vast majority of requests for the diskettes come from state and local governments. The diskettes are, therefore, on their way to becoming a popular ACIR service to state and local governments as well as an important source of revenue for the Commission.

Under Category III, Topical Research on Current Intergovernmental Issues, the Commission has recently published four major studies:

1. A study of turnbacks of federal responsibilities and revenues to the states;
2. An examination of state and local taxation of out-of-state mail order sales;
3. A study of the impact of the agricultural recession on state and local governments, which had been requested by Senator Dave Durenberger, and
4. A large volume examining the effects of transformations of American political parties, campaign financing, interest group structures, and other elements of the political system on federalism and intergovernmental relations.

ACIR has 13 topical research projects in progress. As these are detailed in Appendix A, I would like to highlight only one of the projects, and that is a study of the effects of the federal Tax Reform

Act of 1986 on state income tax yields. ACIR was the first to make estimates available to the states, and the first to make estimates based on dynamic rather than static assumptions about taxpayer behavior. The states have found this information to be tremendously useful. ACIR has received many telephone calls and written inquiries from state officials and citizens because most of the nation's state legislatures are now considering how to respond to the changes in federal tax law.

Other topics of current research include:

- o Fiscal discipline in the federal system, including an empirical analysis of state fiscal discipline mechanisms, such as constitutional provisions for balanced budgets and gubernatorial line-item vetoes;
- o Intergovernmental consequences of proposals for welfare reform and turnbacks of highway programs;
- o Questions of constitutional federalism, preemption of state and local powers, and the role of the national judiciary in the federal system;
- o The place and roles of local government in the federal system; and
- o Various matters of state and local fiscal policy.

I should add that the Commission is nearing the end of a cycle of research. A committee has been appointed to formulate recommendations for new research. In so doing, the committee is soliciting the views of relevant public officials, interest groups, and citizens.

3. Complying with Congressional Cost-Sharing Directives and Appropriations Reductions

The ACIR has made a conscientious and increasingly successful effort (1) to comply with Congressional directives that the Commission raise revenue from state contributions and the sale of publications and services, and (2) to live within established limits for fiscal years 1987, 1988, and 1989.

The Conference Committee report on the fiscal year 1986 appropriation for the Commission directed ACIR to "aggressively pursue contributions from the several states and increase receipts generated from the sale of Commission publications." The cost-sharing program was scheduled to be implemented over three years, during which time federal

funds for the Commission are slated for substantial reductions. For fiscal year 1987, the Conference Committee provided ACIR with an appropriation of $1,750,000. For the outyears, the conferees directed ACIR to request "not more than $1,390,000 in federal funds for fiscal year 1988, and not to exceed $1,040,000 in federal funds for fiscal year 1989." Therefore, the Commission is not requesting an increased appropriation from the Congress.

The Commission has taken vigorous and conscientious measures to comply with the Congress' cost-sharing directives. To date, in fiscal year 1987, the Commission has realized $118,000 from state contributions, sales of products, and other outside sources, such as honoraria for staff speaking engagements. On a monthly pro rata basis, this outside income puts the Commission roughly on target to achieve its minimum goal of $250,000 for fiscal year 1987.

We will continue these cost-sharing activities in earnest throughout FY 1987 and subsequent years by soliciting increased contributions from the states and selling publications and services. We will also step up efforts to secure grants from outside sources to support research projects. In addition, the Commission will continue the kinds of belt-tightening measures reported in previous testimony.

These activities and their results should make it clear that the Commission is making progress toward complying with the Congress' cost-sharing directives. At the same time, though, it should be noted that meeting this directive requires us to divert some staff resources to marketing and billing activities. The primary mission of the Commission is research, upon which the Commission can base solid recommendations. The Commission is making every effort to achieve an acceptable trade-off between marketing and the maintenance of an outstanding research program.

4. Conclusion

In closing, I urge you to approve the Congressionally scheduled FY 1988 appropriation of $1,390,000 for the Advisory Commission on Intergovernmental Relations. Such action would enable the Commission to

continue assisting the Congress and policymakers in the other branches of government as well as state and local governments during this period of extraordinary change and ferment in the federal system. Also, as the federal government relies increasingly on state and local governments to carry out the nation's domestic agenda, the Commission sees a real need for an increased focus on improving state-local relations. Here again, the Commission can serve as a useful forum in the intergovernmental arena.

Thank you for this opportunity to describe our mission and our commitment to you. I will be happy to answer any questions you might have.

APPENDIX A

Advisory Commission on Intergovernmental Relations

Research Program and Project Status Report
April 1, 1987

I. CONTINUAL MONITORING AND INFORMATION DISSEMINATION

Project Name:	Significant Features of Fiscal Federalism, 1986-87 Edition.
Initiation:	Approved by the Commission as a report issued annually under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations.
Assigned Staff:	Michael W. Lawson and Karen L. Kirkwood.
Description:	ACIR published Significant Features of Fiscal Federalism periodically (under different titles) from the Commission's inception to 1977. The report has been updated and issued annually since 1977. Among the most widely circulated and used of ACIR's publications, Significant Features presents data and information on national, state and local revenues, expenditures, tax rates, public sector employment and earnings, and on selected additional topics that vary from year to year. This information has proven to be very useful and basic for citizens, public officials, and academics who wish to understand or analyze the nation's fifty state-local fiscal systems and that of the U.S. government.

Current Status: The 1985-86 edition (263 pp.) was published in February 1986. Research has been completed for the 1986-87 edition.

Expected Date of Completion: The 1986-87 edition will be published in April 1987.

* * *

Project Name: Estimates of State Fiscal Capacity and Tax Effort.

Initiation: This is a continuing activity which includes annual updates. The relevant ACIR recommendation was adopted in March 1982.

Assigned Staff: Mark David Menchik and Max B. Sawicky.

Description: This work involves (1) estimating the tax wealth and tax effort of state areas, using ACIR-developed and other methods, and (2) appraising the use and underlying theory for the various indexes commonly used to measure fiscal capacity and effort. The data are published in easily usable form, including microcomputer disks.

Current Status: A sizable volume with a discussion of the theoretical bases of the RTS and other measures of fiscal capacity and with figures for 1984 was published in September 1986 as ACIR Report M-150. Disks with 1984 data will be available by the end of April 1987. Planning has begun for the 1985 calculations, report, and update of data disks.

Expected Date of Completion: The 1984 edition (181 pp.) was published in September 1986. The 1985 edition of the report is expected to be published in September 1987.

* * *

Project Name: Changing Public Attitudes on Government and Taxes (Public Opinion Poll).

Initiation: Approved by the Commission in 1972.

Assigned Staff: Susannah Calkins and The Gallup Organization (C).

Description: Since 1972, ACIR has commissioned a public opinion poll on government and taxes. Two questions have been asked every year, and the responses provide a unique measure of long-term trends in public opinion on federalism and taxes. Other questions are asked at intervals, or are designed to meet the needs of current ACIR research projects. Polling is done by personal interviews by the Gallup Organization; results are summarized by ACIR staff.

Current Status: Work on the 1987 poll has begun. During March, letters were sent to about 30 outside specialists on public opinion, federalism, and public finance asking them to review the questions asked and suggest improvements in the poll. Polling for the 1987 survey is scheduled for May 1987.

Expected Date of Completion: Changing Public Attitudes on Government and Taxes--1986 (47 pp.) was published in September 1986; the 1987 edition will be published in late August or early September 1987.

* * *

Project Name: Catalogue of Federal Grant-in-Aid Programs to State and Local Governments, FY 1986.

Initiation: Approved by the Commission periodically.

Assigned Staff: Albert J. Richter (C).

Description: As part of the research for the Commission's 14-volume series on the Intergovernmental Grant System published in 1977-78, the Commission identified and counted federal grant programs as of January 1, 1975, and published the results in a Catalogue of Federal Grants-in-Aid (A-52a) in 1977. This widely used and cited study has been updated three times in recent years in reports A-72 (1978), M-133 (1981) and M-139 (December 1984). The Commission has engaged Albert Richter, who was the author of the series of reports before he retired from ACIR, to prepare a current update. This continuing survey provides a snapshot of the scope and principal features of federal grant programs, and the changes and major trends in categorical and block grants over time.

Current Status: Information is now being collected from the agencies and compiled for the catalog.

Expected Date of Completion: Research is expected to be completed by July 1987. Publication is scheduled for October 1987.

* * *

Project Name: Intergovernmental Perspective (Quarterly Magazine).

Initiation: Approved by the Commission in 1974.

Assigned Staff: Joan A. Casey and Jane F. Roberts.

Description: This is a glossy magazine of 30-40 pages ordinarily published four times a year. The magazine contains articles, points of view, and research reports about current issues in federalism and intergovernmental relations. Also included are news notes about the ACIR and about publications and microcomputer data diskettes available from ACIR. The magazine serves a constituency of more than 20,000 citizens, public officials, business people, and academics. In addition to its regular articles on current intergovernmental issues, during the next several years, Intergovernmental Perspective will also feature articles relevant to the Bicentennial of American federalism.

Current Status: Issues for 1987 have been planned and articles are being prepared for these issues.

Expected Date of Completion: The magazine will appear four times in 1987.

II. MICROCOMPUTER DATA SERVICES

Project Name: State-Local Government Finance Diskettes; City/County Government Finance Diskettes.

Initiation: Approved by the Executive Director in October 1985 under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. The diskettes are a user friendly extension of ACIR's annual publication Significant Features of Fiscal Federalism.

Assigned Staff: Michael W. Lawson.

Description: ACIR has developed two series of governmental finance data diskettes: the state-local finance series and the city-county finance series. Both are based on information collected annually by the U.S. Bureau of the Census and are designed to take full advantage of the computational power and popularity of Lotus 1-2-3 or Symphony software so that researchers can easily analyze and organize these data to suit their needs. State legislative and executive agencies, academics, government relations divisions of corporations, interest groups and associations, and members of the municipal bond community have found these diskettes to be very valuable for analyzing a variety of state and local revenue and expenditure topics.

State-Local Government Finance. This series contains data for 70 expenditure and 66 revenue classifications, population and personal income data for all 50 states and Washington, D.C. The data are drawn from computer tapes provided by the Bureau of the Census and can display state government data, local government data (aggregated by state) or data for state and local governments combined. Diskettes are available for fiscal years 1983-85. There are two diskettes for each fiscal year--an expenditure diskette and a revenue diskette.

City-County Government Finance. This series contains data for virtually all U.S. cities over 25,000 and all counties over 50,000. Data are provided for population, 62 categories of general revenue, 30 classifications of general expenditures, four categories of government debt, 14 revenue and expenditure categories of locally operated government utilities, and seven categories of local retirement system finances. There are 12 regions (25 diskettes) in the complete national series. Also drawn from Census tapes, diskettes are available for FY 1984.

Current Status: Update is nearing completion.

Expected Date of Completion: FY 1985 diskettes are expected to be available in June 1987.

Project Name: State Fiscal Capacity Diskettes.

Initiation: Approved by the Executive Director in 1986 under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. These diskettes are a user friendly extension of ACIR's annual publication of information on state fiscal capacity.

Assigned Staff: Mark David Menchik.

Description: The data presented on these diskettes, including previously unpublished detail, can be used to monitor the economic health of states, project future revenues, and compare and contrast tax rates and tax policies in all fifty states. The data are set up to take full advantage of the computational power and popularity of Lotus 1-2-3 or Symphony software which, enhanced by an automatic "macro" program, can be used to perform many research functions. The data base has been designed especially for use by state and local finance and budget officers and other public finance analysts.

Figures in the data base are organized not only for customized calculations but also for ease of presentation as graphs showing trends and interstate comparisons. About 200 "pre-programmed" graphs are included for each state, making the data base a chartbook also. Regional averages are provided, so the graphs compare time trends in the state of interest with that of the multistate region. There is also an automatic "locator" to reach the data of interest quickly. The data base includes the dollar size of the per capita tax base, state-local tax collections, the statutory tax rate (for sales and income taxation), and effective tax rates. Because statutory tax bases differ from state to state and sometimes change, effective tax rates are essential for interstate comparisons and also for monitoring tax burdens in a single state from year to year.

Summary indexes of tax capacity and tax burdens are provided for each calendar year from 1979 to 1984, and for 1975 and 1977. In addition to the time series for the representative tax system index, data for selected years appear for four other indexes of tax capacity and the condition of the state economy: the representative revenue system (encompassing non-tax revenue sources); per capita personal income; personal income adjusted for a state's ability to "export" taxes; gross state product (the state analog to GNP); and total taxable resources, a new measure of fiscal capacity.

Current Status: The diskettes are undergoing critical review by knowledgeable users within ACIR and at several outside agencies.

Expected Date of Completion: Diskettes are expected to be available in April 1987, and then updated annually.

III. TOPICAL RESEARCH PROJECTS

A. Recently Published Research

Project Name: Turnbacks of Federal Responsibilities and Revenues to States.

Initiation: P.L. 98-185 (which renewed General Revenue Sharing) requested that ACIR assist the U.S. Department of the Treasury; a contract with Treasury was approved in August 1984. Commission adopted work plan for additional research in September 1985.

Assigned Staff: Mark David Menchik and Max B. Sawicky.

Description: This study examines the principles that may be used to select functions for devolution to state and local governments. The study also includes a discussion of revenue sources that may be given by the federal government to states and localities in conjunction with turnbacks. Several illustrative packages of revenue bases and program responsibilities are shown. In addition to the adopted recommendation, there are two dissents. Three regional roundtables on the topic were held in October and November of 1985; a list of participants appears in Appendix A of the report.

Current Status: Commission adopted the recommendation and authorized publication in December 1985. ACIR Report A-104 was published in March 1986. The Treasury report was published in September 1986.

Expected Date of completion: Published as Devolving Federal Program Responsibilities and Revenue Sources to State and Local Governments (78 pp.) in March 1986.

* * *

Project Name: State Sales and Use Taxes on Interstate Mail Order Sales.

Initiation: Commission adopted work plan in June 1984.

Assigned Staff: Holly Ulbrich (Academic Resident, 1984-85) and Susannah Calkins (to respond to inquiries for information and resources).

Description: This study reports the Commission's recommendations and the underlying staff research on state authority to require out-of-state mail order vendors to collect sales and use taxes. The study includes the Commission's recommendations that the Congress enact legislation enabling states to collect such taxes; estimates of state revenue losses due to the inability to collect such taxes; and an exploration of the issues from the perspectives of both the states and the mail order and business communities.

Current Status: Completed. (Staff work limited to answering phone and letter queries, and Congressional requests for information and assistance.)

Expected Date of Completion: Published as State and Local Taxation of Out-of-State Mail Order Sales (145 pp.) in April 1986.

* * *

Project Name: The Agriculture Recession: Its Impact on the Finances of State and Local Governments.

Initiation: Requested by Senator Dave Durenberger. The Commission authorized a short study at its December 1985 meeting.

Assigned Staff: Susannah Calkins and Michael W. Lawson.

Description: This report analyzes the impact of the agricultural recession on the financial health of state and local governments, and summarizes indicators of fiscal stress for 10 selected state governments and local governments in the 10 states.

Current Status: Completed.

Expected Date of Completion: Published as a staff information report entitled The Agriculture Recession: Its Impact on the Finances of State and Local Governments (59 pp.) in June 1986.

* * *

Project Name: Political Parties and the American Federal System.

Initiation: Commission adopted work plan in March 1983.

Assigned Staff: Timothy J. Conlan, David R. Beam, Cynthia Cates Colella, Robert Dilger, Robert R. Gleason, Lori M. Henderson, and Ann M. Martino.

Description: The Commission report examines the transformation of political party structures and analyzes their effects on intergovernmental relations. Of special interest are sections tracing the evolution and influence of national, state, and local party organizations; the role of the media; campaign finance and the growth of political action committees; and the influence of special interest groups on party policies and procedures. There are five Commission recommendations.

Current Status: Completed.

Expected Date of Completion: Published as The Transformation in American Politics: Implications for Federalism (382 pp.) in September 1986. An In Brief (condensed version, 75 pp.) was published in October 1986.

B. Research in Progress

Project Name: Fiscal Discipline in the Federal System: National Reform and the Experience of the States.

Initiation: Commission adopted work plan March 1984.

Assigned Staff: Gary M. Anderson, Lawrence A. Hunter and Mark David Menchik.

Description: This study examines the effects of state government fiscal discipline mechanisms, including balanced budget requirements, debt limitations, and gubernatorial line-item veto, on the fiscal behavior of state governments. The study also includes an analysis of the relevance of this performance for the debate about the usefulness of similar mechanisms for the federal government. Included is a survey of views on the nature of the deficit problem, a discussion of the history of the federal deficit, a description of the various fiscal discipline mechanisms in place in the states, and an empirical analysis of the effects of these devices on state deficits, spending, and taxing.

Current Status: The study is included in the docket book for the March 20, 1987 ACIR meeting. A longer version, which includes more detailed statistical results in the empirical section, is expected to be completed by April 1, 1987.

Expected Date of completion: Research scheduled for completion in April 1987.

* * *

Project Name: Implications of the Garcia Decision.

Initiation: Commission directed a series of activities beginning in September 1985.

Assigned Staff: Ronald J. Oakerson and Lawrence A. Hunter.

Description: The U.S. Supreme Court's decision in Garcia v. San Antonio Metropolitan Transit Authority (1985) has been widely perceived as radically altering the legal parameters of American federalism. The Commission has directed the staff to take a number of steps to focus attention on this decision and explore its implications. In 1985, three public hearings were conducted at sites around the country. The Commission issued an information report, Reflections on Garcia and Its Implications for Federalism, in February 1986. To provide a forum for a more thorough examination of the issues, the Commission convened a symposium of legal and political scholars in Bloomington, Indiana, in April 1986. The papers presented at this symposium have been revised, supplemented, and edited for publication.

Current Status: Publication is in process.

Expected Date of Completion: The symposium papers are scheduled for publication as an information report in April 1987.

* * *

Project Name: Tort Reform and Liability Insurance: Issues and Responses.

Initiation: Commission approved publication April 1986.

Assigned Staff: Jane F. Roberts.

Description: This project is an information report based on the proceedings of a panel discussion held during the annual meeting of the state ACIRs.

Current Status: Editing of the proceedings for publication is nearly complete.

Expected Date of completion: Publication is scheduled for May 1987.

* * *

Project Name: A Critical Appraisal of Devolving Selected Federal-Aid Highway Programs and Revenue Bases.

Initiation: Commission adopted work plan in September 1985, following on the completed project and recommendation described above as "Turnbacks of Federal Responsibilities and Revenues to the States."

Assigned Staff: Mark David Menchik.

Description: This study examines the pros and cons of using turnbacks to improve the stability, efficiency, and flexibility of highway financing and operation. The current federal highway program is examined as well, along with the issues now confronting federal road finance. A "thinkers session" was held in October 1986; two additional review sessions were held in February 1986. The preliminary report was discussed at the December 1986 ACIR meeting.

Current Status: Revised report is in the docket book for the March 20, 1987 ACIR meeting. Awaiting Commission action.

Expected Date of completion: Publication is expected in June 1987, pending form and timing of Commission action.

* * *

Project Name: Welfare: Designing a More Efficient Intergovernmental Welfare System.

Initiation: Commission adopted work plan in June 1985.

Assigned Staff: Max B. Sawicky, Susannah Calkins, Ronald J. Oakerson, John Kincaid, Mark David Menchik and Gary M. Anderson.

Description: This study examines trends in poverty and welfare policy; highlights salient controversies in poverty research and policymaking; reexamines ACIR's standing recommendations on public welfare funding; details and evaluates existing and proposed methods of combating poverty and providing public assistance; and analyzes the intergovernmental issues and consequences involved in various arrangements for providing public assistance.

Current Status: A draft summary of ACIR research and findings is in preparation for presentation at the June 1987 meeting of the Commission.

Expected Date of completion: Publication is expected in September 1987, pending form and timing of Commission action.

* * *

Project Name: The Role of the National Judiciary in the Federal System

Initiation: Commission adopted work plan in December 1984.

Assigned Staff: Lawrence A. Hunter and Justice Resources, Inc. (C).

Description: This research examines the roles of the national judiciary in the federal system in light of the many federal court decision during the past 50 years which have altered the position of the states in the federal system. The first phase of the research involved the establishment of a framework for studying issues of federalism and the courts. The second phase has involved an analysis of the efforts of federal courts to reform state institutions and public policy.

Current Status: Research from the first phase was published, with Commission approval, in April 1986 under the title A Framework for Studying the Controversy Concerning the Federal Courts and Federalism. Research from the second phase will be presented to the Commission in June 1987.

Expected Date of Completion: Research will be completed in April 1987. Publication is expected in August 1987, pending form and timing of Commission action.

* * *

Project Name: Local Self-Reliance: Alternative Approaches to Providing Local Public Services.

Initiation: Commission adopted work plan in March 1985.

Assigned Staff: Ronald J. Oakerson, Gary M. Anderson, and Robert M. Stein (C).

Description: This project examines the broad range of possible approaches to providing local public services--including contracting (both private and intergovernmental), franchising, user charges, joint

service agreements, and load-shedding--as a means to promoting greater local self-reliance. Because of widespread interest in contracting, as well as substantial evidence of efficiencies to be gained from contracting, this mode of service production was selected for special emphasis. After assembling data for a representative sample of all municipalities over 10,000 population in the nation, analysis was conducted to learn more about the conditions under which contracting does and does not work, including an assessment of its fiscal effects on local communities.

Current Status: Data analysis is complete. Evaluation of its implications is underway, and the findings are being integrated with existing literature. A report to the Commission will be made in June 1987. Publication is scheduled for the end of the summer.

Expected Date of completion: Publication is expected in August 1987, pending form and timing of Commission action.

* * *

Project Name: Budget Stabilization Funds (Rainy Day Funds).

Initiation: Brief study submitted to Commission Committee of the Whole as part of the study on the impact of the agricultural recession on state and local government finance.

Assigned Staff: Susannah Calkins and Michael W. Lawson.

Description: This study of the impact of the agricultural recession on state and local government finance concluded that the financial health of local governments was dependent to a large extent on state financial health, and the possibility of state aid. A brief survey of state practices in evening out their vulnerability to recession by establishing rainy day funds was included. The Committee of the Whole suggested that the staff working paper be made available as a staff information report.

Current Status: The study is awaiting approval for publication by the Commission. [Further research and expansion of the report may be undertaken to incorporate recent research findings by public finance experts.]

Expected Date of completion: Indeterminate

* * *

Project Name: Local Revenue Diversification.

Initiation: Commission adopted work plan in March 1983.

Assigned Staff: John Shannon, Susannah Calkins, and other staff members and outside contractors who prepared the original studies.

Description: During 1983 and 1984, the Commission's Tax and Finance section and selected outside contractors prepared a series of studies designed to explore revenue alternatives to the local property tax as a guide for local governments under financial pressure from recessions, reductions in federal aid, and property tax limitations. Additional studies on state aid, cash management, and public debt were included. Since their preparation, these studies have been submitted to outside critics and internal review. The ACIR has received a steady stream of requests for information on these subjects. As staff time permits during the next year, revised and updated studies will be issued as individual staff working papers.

Current Status: The chapter on user charges is under revision by Robert Cline who prepared it originally; it will be issued first. The next studies issued will be those on local income and local sales taxes.

Expected Date of Completion: All the individual studies should be issued before the end of calendar year 1987.

* * *

Project Name: Reform of the Federal Income Tax Code and its Implications for State and Local Governments.

Initiation: Commission adopted work plan in December 1984.

Assigned Staff: Carolyn D. Lynch and Policy Economics Group (C).

Description: This study analyzes the state-by-state effects of federal tax reform on state personal income tax liabilities, federal income tax liabilities, and changes in the demand for state and local services. The research includes a description of state conformity to the federal income tax code and how the states are responding to projected changes in state income tax yields. A comparison of the effect of three federal tax reform proposals--The 1986 Tax Act, the Treasury II Plan, and the House Bill--on federal income tax liabilities will highlight the redistributive effects of the deductibility of state and local taxes because the three plans treated this issue very differently. The lowering of marginal tax rates and the repeal of the state and local sales tax deduction under the 1986 Tax Act will increase the "tax-price" of state and local services and is likely to reduce the demand for these goods. Interjurisdictional tax competition may increase under the new tax law because the lowering of marginal tax rates and the repeal of the sales tax deduction will also have the effect of widening tax burden differentials.

Current Status: Research on the impact of the 1986 Tax Act on state personal income tax liabilities is nearly complete. A survey of how the states are responding will be conducted this Spring. A preliminary report of findings is in the docket book for the March 20, 1987 ACIR meeting.

Expected Date of completion: Publication is expected in December 1987, pending form and timing of Commission action.

* * *

Project Name: Federal Preemption of State and Local Laws and Authority.

Initiation: Commission adopted work plan in March 1985.

Assigned Staff: Lawrence A. Hunter (staff reassignment also underway).

Description: This project follows up on ACIR's major research on regulatory federalism, which was published in February 1984. The current research focuses on federal preemption of state and local authority to regulate private sector business activities. A typology of preemption is being developed and the consequences of various types of preemption for states and local governments are being examined along with alternatives to federal preemption.

Current Status: Initial research is in progress, along with the development of a typology, including illustrative legislation representing preemption.

Expected Date of Completion: Research is expected to be completed by September 1987 and a report is expected to be presented to the Commission at its December 1987 meeting.

* * *

Project Name: Analysis of Intergovernmental Aid Formulas.

Initiation: Commission adopted work plan in March 1985.

Assigned Staff: Mark David Menchik.

Description: This study involves a theoretical and empirical analysis of the principles and practices used in allocating intergovernmental grants.

Current Status: This work is in progress; additional work has been delayed because of other assignments. Data has been collected on state-local grants in order to assess the degree to which they meet their stated goals, emphasizing state-local revenue sharing. Preliminary results have been obtained.

Expected Date of completion: Research is scheduled for completion by May 1988.

* * *

Project Name: Rethinking Local Self-Government in a Federal System: The Structure and Performance of Local Political Economies.

Initiation: Commission adopted work plan in March 1985.

Assigned Staff: Ronald J. Oakerson and Roger B. Parks (C).

Description: This project, which began in September 1985, is intended to provide a research base for a fundamental rethinking of ACIR's approach to the organization of local government, including what is ordinarily called "state-local relations." The focus is on "local political economies" rather than on discrete units, or types of units, of local government. Local political economies are understood to embrace a wide variety of public and quasi-public goods and services in local communities. Because local political economies in the U.S. consist of a large number of fairly autonomous public organizations, the project's initial focus has been on the effects and processes of "fragmented" local political economies. The effects of fragmentation have been addressed mainly through a comprehensive review of existing research. How fragmentation works in the context of local political economies was addressed through a case study of St. Louis City and County, Missouri. St. Louis County was selected because it is one of the most highly "fragmented" urban counties in the nation. The fieldwork for this study was conducted in the summer of 1986. Additional work remains to be done, both to test additional hypotheses about the effects of fragmentation and to explore more fully the organization of local political economies. Because the structure and performance of local political economies often depends on provisions of state law, future work will examine interstate and intra-state variations in state law.

Current Status: An analysis based upon both a comprehensive review of literature and the St. Louis case study will be presented to the Commission in June 1987. Final work will begin shortly thereafter.

Expected Date of completion: Research is scheduled for completion in June 1988.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
SALARIES AND EXPENSES

Program and financing (in thousands of dollars)	86	87	88
55-0100-0-1-806			
Program by activities:			
Direct Program:			
1. General administration.....	503	480	475
2. Intergovernmental research...	1,447	1,270	915
Total direct program.....	1,950	1,750	1,390
Reimbursable program.....	101	115	215
10.0001 Total obligations.....	2,051	1,865	1,605
Financing:			
Offsetting collections from:			
11.0001 Federal funds.....	-101	-15	-15
14.0001 Non-Federal sources.....	...	-100	-200
25.0001 Unobligated balance lapsing....	3	...	...
39.0001 Budget authority.....	1,953	1,750	1,390
40.0001 Budget authority (appropriation).....	1,953	1,750	1,390
40.0001 Reduction pursuant to P.L. 99-177.....	...	...	...
Relation of obligations to outlays:			
71.0001 Obligations incurred, net.....	1,950	1,750	1,390
72.4001 Obligated balance, start of year	345	300	308
74.4001 Obligated balance, end of year..	-300	-308	-286
77.0001 Adjustment in expired accounts..	-36	...	...
90.0001 Outlays.....	1,959	1,742	1,412

OBJECT CLASSIFICATION (in thousands of dollars)	86	87	88
55-0100-0-1-806			
Direct obligations			
Personnel compensation:			
111.101 Permanent positions.....	900	727	637
111.301 Positions other than permanent.	23	15	10
111.501 Other personnel compensation...	11	10	10
Total personnel compensation..	934	752	657
112.101 Personnel benefits: Civilian...	117	87	80
121.001 Travel and Transportation of persons:			
121.101 Staff Travel.....	16	30	30
121.201 Commission Travel.....	25	35	40
121.301 Invitation Travel.....	22	20	10
122.001 Transportation of Things.....	6	10	10
123.101 Standard level user charges....	253	230	230
123.201 Communications, utilities, and other rent.....	74	95	100
124.001 Printing and reproduction.....	46	70	70
125.001 Other services.....	398	367	113

OBJECT CLASSIFICATION (in thousands of dollars)

		86	87	88
55-0100-0-1-806				
	Direct obligations			
	Personnel compensation:			
126.001	Supplies and materials	37	40	35
131.001	Equipment	22	14	15
999.001	Total direct obligations	1,950	1,750	1,390
999.002	Total reimbursable obligations	101	115	215
999.001	Total obligations	2,051	1,865	1,605

TRUST FUND (CONTRIBUTIONS)

Program and financing (in thousands of dollars)

		86	87	88
55-8155-0-7-806				
	Program by activities:			
10.00	Total Obligations	172	150	300
	Financing:			
17.00	Recovery of Prior Year Obligations	...	...	...
21.40	Unobligated balance available, start of year	-82	-8	-8
24.40	Unobligated balance available, end of year	8	8	8
60.00	Budget authority (Permanent, indefinite)	99	150	300
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	172	150	300
72.00	Obligated balance, start of period	3	103	28
74.00	Obligated balance, end of period	-103	-28	-28
75.00	Adjustment in unexpired accounts	...	...	...
90.00	Outlays	73	225	300

TRUST FUND (CONTRIBUTIONS)

OBJECT CLASSIFICATION (in thousands of dollars)	86	87	88
55-8155-0-7-806			
21.0 Travel and Transportation of persons	9	20	25
22.0 Transportation of Things	...	5	5
23.2 Other rent, communications and utilities	8	6	10
24.0 Printing and reproduction	92	44	110
25.0 Other services	30	75	150
26.0 Supplies and materials	2	...	...
31.9 Equipment	31	...	...
99.0 Total obligations	172	150	300

SALARIES AND EXPENSES (P.L. 86-380)

(Personnel Summary)

55-0100-0-1-806	86	87	88
Total number of full-time permanent positions	25	21	21
Total compensable workyears:			
Full-time equivalent employment	1	1	1
Full-time equivalent of overtime and holiday hours	....	....	....
Average paid employment	25	21	21
Average IR grade	11.5	11.8	11.8
Average IR salary	$36,317	$36,059	$37,094

SALARIES AND EXPENSES

)100-0-1-806	86	87	88
Executive Level V	1	1	1
Grades established by the Chairman, comparable to GS grades			
IR-18	0	0	0
IR-17	0	1	1
IR-16	0	0	0
IR-15	3	3	3
IR-14	3	3	3
IR-13	2	2	2
IR-12	1	1	1
-11	1	1	1

SALARIES AND EXPENSES

0100-0-1-806	86	87	88
IR-10	1	1	1
IR-9	1	1	1
IR-8	3	3	3
IR-7	0	0	0
IR-6	1	1	1
IR-5	1	1	1
IR-4	1	1	1
Total permanent positions	19	20	20
Temporary (IR-4)	0	0	0
Filled positions, end of period	13	12	12
Total permanent employment, end of period	32	32	32

NUMBERS OF CIVILIAN PERSONNEL

	Number of Employees at End of Year					
	1986 Actual		1987 Estimate		1988 Estimate	
	Full-time in Permanent Positions	FTE Total	Full-time in Permanent Positions	FTE Total	Full-time in Permanent Positions	FTE Total
Salaries and Expenses Administrative Expenses	19	20	20	24	20	24
Salaries and Expenses Reimbursable Program	...	...	...	...	...	...
Contributions Account	...	...	...	...	...	...
Total Agency Employment (Employment shown in budget schedules)	19	20	20	24	20	24

PERMANENT STAFF

09/30/86

Shannon, F. John (Executive Director)

Bunn, Elizabeth A. (Secretary)
Calkins, Susannah E. (Senior Analyst)
Dominguez, Mary A. (Secretary)
Fried, Esther (Personnel Officer)
Gleason, Robert (Director of Communications & Publications)
Hahn, Thomas D. (Accountant)
Jones, MacArthur C. (Duplicating Machine Operator)
Kirkwood, Karen L. (Staff Assistant)
Lynch, Carolyn (Analyst)
McManus, Kelley (Information Officer/Librarian)
McPhaul, Anita (Secretary)
Oakerson, Ronald (Analyst)
O'Bier, Lori (Secretary)
Phillips, Ruthamae A. (Administrative Assistant)
Roberts, Jane F. (Assistant Director of Communications & Publications)
Ross, Ronald L. (Mail Room Supervisor)
Smith, Linda M. (Receptionist)
Steinko, Franklin A., Jr. (Budget and Management Officer)

TRUST FUND
55X8155

HONORARIUMS
FY 1986

PAYEE	AMOUNT
Public Affairs Research Council	$ 500.00
University of Illinois	500.00
Mississippi State University	500.00
Ohio Illinois University	500.00
Total	$ 2,000.00

SALARIES AND EXPENSES
55.0500

EQUAL EMPLOYMENT

Over the last decade, the number of staff employed by the Advisory Commission on Intergovernmental Relations decreased steadily--from 36 permanent employees in 1976 to 19 in FY 1986. The over 47% reduction in staff size during that decade left very few opportunities to recruit minorities and women. For lack of funding, positions are not currently being filled as staff members resign or retire.

In FY 1985, there were 27 permanent employees on the staff of the Commission. If FY 1986, that number has declined to 19. There were eight changes in the composition of the ACIR professional staff during this period. White males dropped from 12 to 5, and one white female staff member was promoted from a support position to a professional position, which increased the number of professional white females to six.

From FY 1985 to FY 1986, the number of secretarial/support staff dropped from eight to five--four black females and two white females remain. ACIR

continues to have one black male technician/supervisor and one black male technician.

Level	Blacks		White		Asian Americans		American Indian	
	M	F	M	F	M	F	M	F
Full-Time Professional	-	-	5	6	-	-	-	-
Technician/Supervisor	1	-	-	-	-	-	-	-
Technician	1	-	-	-	-	-	-	-
Secretarial	-	4	-	2	-	-	-	-

Operating Costs: Because of the small size of the staff and the overlapping duties within the administrative services section, no records are maintained of time spent on EEOC activities per se, and no separate accounting is performed for EEOC expenditures. Less than 1% of the time of each of three EEOC coordinators is spent on EEOC. This involves fulfilling reporting requirements, attending meetings, and keeping up to date on changes in EEOC rules and regulations.

Operating Costs: Because of the small size of the Commission and the overlapping of duties within the Administrative Services section, no records are maintained of time spent on EEOC activities in particular, and no separate accounts are maintained for EEOC expenditures. Less than 1% of the time of each of three EEOC coordinators is spent on EEOC. This involves fulfilling reporting requirements and attending meetings and keeping up to date on changes in rules and regulations.

PUBLICATION COSTS
FY-1986, INCLUDING ESTIMATES

Title	Pages	Type Cost	Press Run	Printing Cost
The States and Distressed Communities November 1985. (A-101)	292	I/H	2,500	3,720
Intergovernmental Service Arrangements For Delivering Local Public Services: Update 1983 October 1985. (A-103)	140	I/H	2,500	2,988
Devolving Federal Program Responsibilities And Revenue Sources To State And Local Governments March 1986. (A-104)	80	I/H	3,400	1,840
State And Local Taxation Of Out-Of-State Mail Order Sales April 1986. (A-105)	148	I/H	2,500	2,500*
The Transformation In American Politics: Implication for Federalism August 1986. (A-106)	384	I/H	2,500	4,989
The Condition of American Federalism: Hearings Held in ACIR's 25th Anniversary Year February 1986. (M-144)	40	1,605	2,500	1,370
Significant Features of Fiscal Federalism: 1985-86, February 1985. (M-146)	264	I/H	6,500	7,563

PUBLICATION COSTS
FY-1986, INCLUDING ESTIMATES

Title	Pages	Type Cost	Press Run	Printing Cost
Reflections On Garcia And Its Implications For Federalism February 1986. (M-147)	56	I/H	2,500	1,340
Tax Capacity of The States 1983 April 1986 (M-148)	112	2,979	2,500	1,850
A Framework For Studying The Controversy Concerning The Federal Courts And Federalism April 1986 (M-149)	76	I/H	3,400	1,558
Changing Public Attitudes on Governments And Taxes: 1985, October 1985 (S-14)	40	1,565	3,500	1,843
Changing Public Attitudes on Governments And Taxes: 1986, September 1986 (S-15)	48	870	3,000	1,800*
In Brief: Jails: Intergovernmental Dimensions Of A Local Problem (B-8)	44	350	10,000	2,350
Intergovernmental Perspective: To Deduct Or Not Deduct? Fall 1985, Vol. 11, No. 4.	40	1,747	24,000	10,805
Welfare Reform: The Search For Consensus Winter/Spring 1986, Vol. 12, No. 1/2	36	1,802	24,000	9,887
Turnbacks: A Sorting Out of Tasks and Taxes? Summer 1986, Vol. 12, No. 3	32	1,392	24,000	10,000*

*Estimate.
I/H Typesetting accomplished in-house

Reports Issued in FY 1986

COMMISSION REPORTS

Devolving Federal Program Responsibilities and Revenue Sources to State and Local Governments, March 1986. (A-104)
State and Local Taxation of Out-of-State Mail Order Sales, April 1986. (A105)
The Transformation in American Politics: Implications for Federalism, August 1986. (A-106)

INFORMATION REPORTS

The Condition of American Federalism: Hearings Held in ACIR's 25th Anniversary Year, February 1986. (M-144)
Significant Features of Fiscal Federalism: 1985-86, February 1986. (M-146)
Reflections on Garcia and Its Implications for Federalism, February 1986. (M-147)
1983 Tax Capacity of the States, March 1986. (M-148)
A Framework for Studying the Controversy Concerning the Federal Courts and Federalism, April 1986. (M-149)
Measuring State Fiscal Capacity, 1986 Edition, September 1986. (M-150)

PUBLIC OPINION SURVEY

Changing Public Attitudes on Government and Taxes: 1986, September 1986. (S-15)

INTERGOVERNMENTAL PERSPECTIVES

"To Deduct or Not to Deduct? That is the Question," Fall 1985. (Vol. 11, No. 4)
"Welfare Reform: The Search for Consensus," Winter/Spring 1986. (Vol. 12, No. 1/2)
"Turnbacks: A Sorting Out of Tasks and Taxes?" Summer 1986. (Vol. 12, No. 3)

STAFF INFORMATION REPORT

"The Agricultural Recession: Its Impact on the Finances of State and Local Governments," June 1986.

DISKETTES

Government Finance Data on Microcomputer Diskettes, October 1985.
County and City Finance Data on Microcomuters Diskettes, August 1986.

RESEARCH FEARS

Senator DECONCINI. You say you are having trouble. Are you running out of funds?

Mr. DWIGHT. Well, we think that before we are finished we are going to have trouble.

Senator DECONCINI. Why is that?

Mr. DWIGHT. Because we do not feel that the States are going to be willing to pick up one-half the tab and realistically, the cities and the counties have never contributed to the Commission.

Senator DECONCINI. Where else do you get your funding besides Congress and the States?

Mr. DWIGHT. In the sale of our publications and certain information that we put together and sell, basically, to the States.

PRIVATE CONTRIBUTIONS

Senator DECONCINI. Are you able to take private donations or anything like that?

Mr. DWIGHT. Yes; we do have some foundation funding and those are areas that we are also exploring because we don't want to be accused of dragging our feet on this issue.

Senator DECONCINI. No; I don't think anybody is going to accuse you. I think you have done remarkably well, especially with the substantial percentage decrease and increased volume. As a matter of fact, I think you have a little bit more funds than you did before you took the last decrease. I mean your total funding has not dropped. Just the amount of appropriated funds; is that correct?

Mr. DWIGHT. The appropriated funds have reduced and we are reasonably comfortable that we are going to meet the first year target, although it is not in hand yet.

Senator DECONCINI. That is encouraging, I must say. Go ahead.

Mr. DWIGHT. That is the extent to which I want to address myself, other than the information that is contained in the prepared statement.

THE FUTURE OF ACIR

Senator DECONCINI. So you mention your capabilities to have a product that States and local governments would pay you for. I don't quite understand. Why are you running out of such subject matters that will be of interest to them in the future?

Mr. DWIGHT. Looking forward, if we are not able to pick up the additional installments that are called for in the budget year and the out years, in order to get to the 50-percent level that the Congress has suggested, and my judgment is that we are not going to be able to continue to increase the level of State funding as we have this year, then our level of activity will be significantly reduced, and it isn't so much making our products relevant, although that is an obvious consequence also, but we will loose the attention of our Commission members.

In other words, until we have meaty issues to talk about, you can't expect four Governors to come to a Commission meeting to talk about nothing, or to talk about things that are not relevant.

Senator DECONCINI. And you think that is where you are headed.

Mr. DWIGHT. Well, that is my concern, and I want to raise that concern now.

Senator DECONCINI. Have you reached bottom as far as——

Mr. DWIGHT. No; we are healthy currently, we are just looking to the future, and we have some concern about it.

Senator DECONCINI. What do you suggest?

Mr. DWIGHT. That you——

Senator DECONCINI. No longer require any reduction?

Mr. DWIGHT. No; we are willing to make the next step. But my judgment is that we may fall short in the end and if you will be sympathetic to that line of concern on the part of the Commission, then we can probably work out something in the future. If we have to take the next step and we are not successful in attaining the increased State funding——

Senator DECONCINI. I see. What you are saying is that by this time next year, you may have hit bottom and you may come and say, hey, this is as far as we can go—and quite frankly—we are cramping our capabilities to produce what we are chartered or directed to do.

Mr. DWIGHT. That is correct.

Senator DECONCINI. So you are giving us some potential warning.

Mr. DWIGHT. Yes.

Senator DECONCINI. OK.

Mr. DWIGHT. You put it so much better than I do, Mr. Chairman.

OPERATION ALLIANCE

Senator DECONCINI. No; that is pretty clear. Let me ask you one more question. As you know, there is currently an ongoing major Federal, State, and local law enforcement initiative along the Southwest border called Operation Alliance. This program features the use of State and local law enforcement officials to actually help with hands-on drug enforcement with the Federal agencies along the border.

Is this the type of Federal, State, and local effort that and ACIR would address? Would you task that kind of program, just out of curiosity? I am not asking you to do it. I just want to know if that is the kind of——

Mr. DWIGHT. That particular issue is not before the Commission as far as I am concerned.

Senator DECONCINI. But it could be?

Mr. DWIGHT. It could be if there was sufficient interest on the part of our members or if a Member of Congress thought it was something we ought to look at. There are always those possibilities. My inclination is that it is probably not a broad enough based issue. In other words, it is highly concentrated within four States, one of which is yours.

It would not be the sort of thing that the Commission would normally look at, although last year we looked very specifically at the problems of the agricultural economy, which is more than four States, but certainly not all of the States, and that was one of the issues that we under took at the request of the Senate Agriculture Committee, I believe.

Senator DECONCINI. Well, thank you gentlemen. Do you have anything to add, gentlemen?

1987 SUPPLEMENTAL

Mr. STEINKO. Mr. Chairman, one thing I would like to comment on, under the restrictions or guidelines imposed last year we were asked not to submit for either the retirement or the pay cost supplemental. The House has deemed to put in $8,000 to cover that for this year, and the addition of that to our appropriation for 1987 would be greatly appreciated.

Senator DECONCINI. I am glad you called that to our attention. I didn't know that, but Mr. Mills verifies what you just said and we will take a careful look at it. Thank you very much, gentlemen.

Mr. DWIGHT. Thank you, Mr. Chairman.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until April 3, 9:30 a.m., at Senate Dirksen Building, room 116, where we will hear the testimony from the U.S. Postal Service.

[Whereupon, at 3:20 p.m., Wednesday, April 1, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, April 3.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

FRIDAY, APRIL 3, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:40 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini and Mikulski.

U.S. POSTAL SERVICE

STATEMENT OF PRESTON R. TISCH, POSTMASTER GENERAL

ACCOMPANIED BY:
MICHAEL S. COUGHLIN, DEPUTY POSTMASTER GENERAL
COMER COPPIE, SENIOR ASSISTANT POSTMASTER GENERAL, FINANCE AND PLANNING
LOUIS COX, GENERAL COUNSEL

OPENING REMARKS

Senator DECONCINI. Good morning. The subcommittee will come to order.

This morning the Subcommittee on Treasury, Postal Service, and General Government is meeting to receive testimony from the Postmaster General, Preston R. Tisch. The Postmaster General will testify on the small but important part of the Postal Service program that provides postal subsidies to certain nonprofit and other groups. We will also be asking Mr. Tisch about some of the Postal Service operations that are outside the scope of this committee's control.

PREPARED STATEMENT

Mr. Tisch, you bring to this position great expertise and experience in the business community. I think the country is most fortunate to have you. It is a big, big business that you are running now. We wish you every success in being able to continue to manifest the tremendous experience and success you have had in the business world in your new position.

If you will just summarize your statement, we will put your full statement in the record.

Mr. TISCH. Thank you, Senator.

[The statement follows:]

STATEMENT OF PRESTON R. TISCH

Mr. Chairman, for fiscal year 1988, the President has recommended an appropriation to the Postal Service of $71,795,000. This is a reduction of $578,205,000 from the amount appropriated by the continuing resolution for fiscal year 1987.

PUBLIC SERVICE APPROPRIATION

The Postal Service has not received a public service appropriation since fiscal year 1982. We are again not requesting one this year.

REVENUE FORGONE APPROPRIATION

The President has recommended a revenue forgone appropriation of $32,288,000. This amount covers only free mail for the blind and visually handicapped.

The President's budget submission indicates that the administration will submit a legislative proposal on the subject of revenue forgone. It will propose repealing authority for revenue forgone appropriations for preferred rate mail except free mail for the blind. The rest of the groups which have benefited from this appropriation would continue to receive lower rates, but in a different way and subject to some tightening of eligibility. Rate levels would be determined in postal rate proceedings. The current ratemaking standards would be supplemented by a new requirement to consider the public benefits provided by reduced-rate mail. To avoid a revenue shortfall, the burden previously carried by appropriations would be transferred to other mailers, through adjustment to their postage rates.

Under current law, the appropriation needed to maintain free and reduced-rate mail at the authorized level in fiscal year 1988 is $702,420,000. This amount covers the estimated revenue loss from charging the lower rates. Under current law, if Congress decides not to provide the full appropriation, the Postal Service adjusts the reduced rates to make up the shortfall.

TRANSITIONAL APPROPRIATION

The President's recommendation also includes $39,507,000 for fiscal year 1988 for transfer to the Department of Labor. This request covers workers' compensation costs relating to the former Post Office Department. The amount requested is the Labor Department's most recent annual billing, covering benefits paid in 1986. About 3,000 claimants still receive disability benefits as a result of injuries incurred before July 1, 1971. By law the United States remains responsible for these claims and the Postal Service is not liable for them.

SUPPLEMENTAL APPROPRIATION REQUEST

The President has also requested a supplemental appropriation to the Postal Service of $79,177,000. This amount is for payment to the Department of Labor to cover its 1984 and 1985 workers' compensation billings for benefits to former employees of the Post Office Department. This total combines the amounts requested in the fiscal year 1986 and 1987 budget requests, but not appropriated. In submitting a conference report on the fiscal year 1987 continuing resolution, the conferees stated that consideration of this portion of the Postal Service request was being deferred.

Like the amounts for the most recent billing included in the fiscal year 1988 regular appropriation request, these earlier benefits for Post Office Department retirees remain the liability of the United States.

Mr. Chairman, I would be pleased to respond to any questions.

FISCAL YEAR 1988 REVENUE FORGONE APPROPRIATION REQUEST

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Mr. Chairman, I would be pleased to respond to any questions.

Senator DECONCINI. Mr. Postmaster General, thank you very much.

REVENUE FORGONE APPROPRIATIONS

We notice that the President, once again, has proposed virtually no revenue forgone appropriation for preferred-rate mailers. As you say in your statement, the revenue forgone appropriation only covers free mail for the blind and visually handicapped—approximately $32.3 million. The balance of the appropriation request would cover funds to be transferred to the Department of Labor to pay for workers' compensation costs relating to former Post Office Department employees.

Can you outline for the committee, Mr. Postmaster General, what would happen to preferred-rate mailers' postal rates in fiscal year 1988 if this transpires?

Mr. TISCH. Mr. Chairman, I am sorry I neglected to note the associates who are here with me. On my left is Michael S. Coughlin, Deputy Postmaster General. Next to Mr. Coughlin is Louis A. Cox, General Counsel. And on my right is Mr. Comer S. Coppie, Senior Assistant Postmaster General, Finance and Planning Group.

Senator DECONCINI. Welcome.

Mr. TISCH. I would like Mr. Coppie to answer that question please, sir.

Senator DECONCINI. Yes.

Mr. COPPIE. Mr. Chairman, assuming that there was to be no appropriation beyond the appropriation for the blind, then there would be a substantial increase.

Senator DECONCINI. What percentage increase would that be?

Mr. COPPIE. I can provide it for each of the various classifications, but to give you an example, take second-class publications. The in-county increase would be 57 percent, going from a current rate of 5.4 to 8.5; the nonprofit would go from 8.7 to 10.5, 21 percent; classroom would go from 13.1 cents to 19.5, 49 percent. Science and agriculture would go from 11 cents to 11.5, or a 4-percent increase.

We will provide a complete breakdown.

Senator DECONCINI. If you could, that is a good example. Thank you.

[The information follows:]

PRELIMINARY PREFERRED PRICE LEVELS[1,2]

FISCAL YEAR 1988 ILLUSTRATIVE EXAMPLES

Class of service	Appropriation amount (Price level)				
	$556 million[3] (Current prices)	$702 million[3] (Step 16)	$650 million[3,4] (Above step 16)	$72 million[5] (Above) step 16)	(Commercial rates)
Second-class publications:					
In-county (cents)	5.4	4.5	4.8	8.5	8.8
Percent		17	11	57	63
Nonprofit (cents)	8.7	8.2	8.4	10.5	10.6
Percent		6	3	21	22
Classroom (cents)	13.1	11.2	11.8	19.5	19.6
Percent		15	10	49	50
Science of agriculture (cents)	11.0	10.8	10.9	11.5	11.6
Percent		2	1	4	5
Third-class nonprofit:					
Carrier route presort (cents)	5.5	4.8	5.1	8.2	8.3
Percent		13	7	49	51
Presorted to five digits (cents)	7.1	6.3	6.6	10.0	10.1
Percent		11	7	41	42
Required presort (cents)	8.5	7.4	7.8	12.4	12.5
Percent		13	8	46	47
Fourth-class library rate	73.0	67.0	69.0	93	94.0
Percent		8	5	27	29

[1] See illustrative examples below.

DESCRIPTION OF ILLUSTRATIVE PREFERRED RATE EXAMPLES

SECOND-CLASS PUBLICATION

In county:
- Rural newspaper:
  - Frequency: Weekly
  - Weight: 4 ounces
  - Advertising: 50 percent
  - All delivered in county
  - Presorted to carrier route

Nonprofit:
- Veterans' magazine:
  - Frequency: Monthly
  - Weight: 4 ounces
  - Advertising: 20 percent
  - New York to Chicago
  - Presorted to five digits

Classroom:
- Classroom publications:
  - Frequency: Weekly
  - Weight: 12 ounces
  - Advertising: 15 percent
  - New York to Chicago
  - Thirty-two copies per piece

Science of agriculture:
- Rural agricultural newspaper:
  - Frequency: Weekly
  - Weight: 4 ounces
  - Advertising: 50 percent
  - Within 150 miles of entry
  - Presorted to five digits

THIRD-CLASS NONPROFIT

Fundraising letter:
- Weight: 3/4 ounces
- Nationwide distribution
- Carrier route presort
- Presorted to five digits
- Required presort

FOURTH-CLASS LIBRARY RATE

Book between libraries:
- Weight: 2 pounds
- New York to Chicago

[2] Percentage increases (decreases) are indicated below prices.

[3] Excludes $39.5 million for POD transitional appropriations.

[4] Represents fiscal year 1987 postal appropriation level.

[5] Assumes $72 million proposed by administration is appropriated and no changes are made to preferred rate statutes.

PROPOSED LEGISLATIVE CHANGE FOR REVENUE FORGONE

Senator DECONCINI. Mr. Tisch, in your opening statement you point out that the President intends to submit a legislative proposal to Congress that would dramatically alter the revenue forgone postal subsidy program. According to your statement, to avoid a revenue shortfall, the burden previously carried by appropriations would be transferred to other mailers.

I assume that what this means is that the regular rate payers will pick up the tab for the subsidized mailers. This is a proposal that has, as you know, been rejected virtually every time it has come up here.

What gives you some optimism that it may be approved this time? What will happen to preferred-rate mailers if the legislation is not enacted?

Mr. TISCH. Well, as you know, sir, this is the President's proposal. It is not backed by the Postal Service. We do not believe that there is much chance of this occurring. We are not proposing that it go forward.

Senator DECONCINI. You are not supporting this legislation, is that right?

Mr. TISCH. That is correct, sir.

Senator DECONCINI. We are glad to have that on the record.

So, you will be requesting a supplemental funding for revenue forgone if the proposed legislation does not pass?

Mr. TISCH. That is correct. As you know, Congress has to make the decision on it, and we will abide by the Congress' decision.

Senator DECONCINI. Do you have any idea or estimate of what the request would be for supplemental?

Mr. COPPIE. Building on the Postmaster General's statement, I think we ultimately look to the Congress for an intent here. If the Congress' intention is to do what it is currently doing, which is to have the preferred mailers pay at current prices, then the additional requirement in 1988 would be $556 million.

But I think the important point here, Mr. Chairman, is for the congressional intent to be known, and we will comply accordingly.

Senator DECONCINI. Do you know what OMB, the President, or the White House is thinking about? Will they ask for a supplemental themselves, or will they wait just for us to act? Do you have any speculation?

Mr. COPPIE. I do not have any clear indication on that. I think that, based on the historical record, the congressional intent here needs to be shown, and then the action will flow from that.

EFFECT OF FERS COSTS ON POSTAGE RATES

Senator DECONCINI. Mr. Tisch, I understand that at an oversight hearing before the Senate Subcommittee on Federal Services, Post Office, and Civil Service last month, you testified that you expect the Postal Service's increased FERS costs to result in an increase in first-class postage. I am informed that you projected that the FERS retire-

ment costs will increase the Postal Service's operating budget by $1.8 billion over the next 2 years.

Can you explain why you believe FERS will have such a dramatic effect on the cost of postage, especially since FERS has been sold as a less costly alternative to the current Civil Service Retirement Program?

Mr. TISCH. On the overall picture, we think that the civil service program contributions' cost to the Postal Service is roughly 35 percent. We calculate FERS to be roughly 33 percent. But there is an amount of upfront money that has to go into FERS. With a changeover of some of our 560,000 eligible employees into FERS, we believe—and we get this information from the Office of Personnel Management, that 40 percent of our people will go into the FERS program. On that basis, we come up with the calculation of roughly $1.8 billion in fiscal year 1987 and fiscal year 1988.

Senator DECONCINI. Is that estimate from any surveys or are you just kind of picking up on what you think you know your people will do?

Mr. TISCH. No; the Office of Personnel Management gave us the number of 40 percent.

Senator DECONCINI. They gave you that 40 percent.

Mr. TISCH. And then we went out and hired Towers, Perrin, Forster & Crosby, and they came up with an estimate that, USPS transfers will range somewhere between 35 and 51 percent, with the most likely amount of 46 percent.

POSTAL MANAGEMENT REORGANIZATION

Senator DECONCINI. Mr. Tisch, Albert Casey, the temporary Postmaster General, ordered a total reorganization of the Postal Service, so I am informed. This was apparently a change from the original plan submitted by former Postmaster General Paul Carlin to reorganize the postal headquarters.

As I understand it—please correct me if I am inaccurate—the 1986 reorganization of the Postal Service was designed to give greater decisionmaking authority to local jurisdictions. I am told, however, that the result has been a total lack of a national policy for discipline, use of overtime, hiring, and promotions. I understand that the reorganization has resulted in expanded control and authority being given to each of the 74 divisions, each of which is virtually autonomous.

What is your reaction to the reorganization that was started by your predecessors, which appears to have diluted your ability to oversee what is going on in 74 different divisions around the country?

Mr. TISCH. I do not agree with that statement at all, sir. I think that Postmaster Albert Casey did an outstanding job in reorganizing the Postal Service in the 7½ months that he was in the job.

The 74 division managers are responsible for the operation of the Postal Service throughout the country. They report to five regional postmasters general, and they have the same discipline and, we believe, are under very, very close scrutiny. We believe that the plan in the last 9 months since implementation has done well to bring the decision

making down to a lower level and get the decisions made quicker than they were before.

CONSISTENCY OF PERSONNEL POLICY

Senator DECONCINI. Mr. Tisch, are you indicating then that there is a national policy of discipline throughout all 74 divisions?

Mr. TISCH. Yes, sir.

Senator DECONCINI. Is there a standard use of overtime for all those divisions?

Mr. TISCH. Yes, sir.

Senator DECONCINI. In hiring and promotion, does it vary from division to division or is it standard for all those divisions?

Mr. TISCH. Well, it comes out of the headquarters standard. I will not guarantee that it ends up in the field as standard.

I would like the Deputy Postmaster General, who has been out in the field to a great degree, to comment on that, sir.

Senator DECONCINI. Fine, thank you.

Mr. COUGHLIN. Yes, Mr. Chairman; those 74 divisional organizations report through the five regional postmasters general up to me.

Last year when we reorganized under Postmaster General Casey, the basic philosophy behind that was that we could provide better service, and more cost-efficient service by providing the maximum degree of autonomy and independence at the local level and the division level, consistent with the requirements of our national postal system. We are not 74 different postal services; we are one national postal service. Therefore, there are certain things that must link up. And one of those is personnel policy. In that respect, we are consistent around the country and other areas: in our national distribution network, in our financial reporting——

Senator DECONCINI. Does that include overtime, hiring, and promotions?

Mr. COUGHLIN. The rules governing overtime are spelled out in our labor contract and in some of our internal regulations——

Senator DECONCINI. And it does not vary between any of these 74 divisions?

Mr. COUGHLIN. The application of those does not vary from place to place.

MANAGEMENT REORGANIZATION—FACILITY RENOVATION

Senator DECONCINI. I am told that one of the problems that has cropped up in some of the new divisions formed by the reorganization, specifically in Denver, Baltimore, and Cleveland, is costly expenditures for office space, renovation, and redecorating projects. I also understand that the reorganization has been extremely costly in terms of what you have spent on employee relocations.

Could you comment on the allegations that I have just set forth? Could you tell the subcommittee what the reorganization has cost the Federal service in total?

Mr. COUGHLIN. Let me comment generally on that. I cannot speak specifically to the three locations you talked about because I am not familiar with those.

One effect, though, of the reorganization was shifting resources from our regional offices, which at that time had 400 to 500 people in each office. Those were reduced to about 90 people. That is where they are today. We shifted most of those resources downward, into the 74 divisional offices, to put the resources closer to where they could do the best job for us.

Part of the result of that was the need for expanded space in some locations. We simply did not have the space to house some of those additional people, and it did result in some additional costs for space and starting those things up.

In terms of——

Senator DECONCINI. Would you mind giving us the details for the record as to the costs in Denver, Baltimore, and Cleveland?

Mr. COUGHLIN. I think we can, yes.

Senator DECONCINI. And break it down as to——

Mr. TISCH. Just as an aside, sir, I have been in the Denver division general manager postmaster's office, and I recall that it is no different, I think it is less lavish than many of the other division offices I have been in that were established in the reorganization. So, I do not know where these allegations come from. But it is less lavish than many of the offices I have seen from——

Senator DECONCINI. Well, of course, less lavish is——

Mr. TISCH. Substantially less lavish.

Senator DECONCINI. That is interesting. I have seen some postal offices and some Cabinet and agency heads' offices here that are less lavish than, say, the Attorney General's, and it is pretty lavish. I have not seen the Denver one.

Mr. TISCH. I have, sir, and it is not lavish at all.

Senator DECONCINI. It is not lavish. That reassures me very much, because I know from your background you know what lavishness is; and I say that in all due respect for the quality of the businesses that you have been in.

Could you supply us with the cost of these three offices and a total cost?

[The information follows:]

RENOVATIONS REQUIRED BY REORGANIZATION

REASON FOR PROJECTS

Reorganization typically added 35 to 40 positions to the MSC's which were upgraded to divisions. In the three cities in question (Cleveland, Baltimore, and Denver), alterations to the existing facility were required to provide the necessary office space. Partly the need was met by converting nonoffice space (Cleveland—sack storage, Baltimore—print shop, Denver—bid opening room, supply storage). Also, in all three locations existing office space was repartitioned to accommodate more employees. In no case was there a general upgrading of existing offices not impacted by reorganization.

Cost breakdown

Cleveland:	
Partitions, et cetera for marketing and field ops	$16,295
Partitions, et cetera for other offices/storage	14,989
Carpeting	4,172
HVAC alterations	10,572
Total	46,028
Baltimore: Line item costs not immediately available. In-house labor was used to renovate 8,500 square feet. Cost was primarily lumber, drywall, paint, and 100 square yards of carpeting	110,811
Denver: Leased space formerly occupied by the FREBO, BMEO, and district office was consolidated (from several parts of the leased building) and renovated. In addition, space in the MPO was renovated.	
MPO renovations (excluding carpet)	125,000
MPO carpet	12,000
Leased space renovations	15,000
Relocate computer system	49,309
Lunchroom/office furniture	12,000
Total	213,309

Of the total cost associated with the field realignment, travel, and relocation expenses were the most significant costs. Special accounts were established to track these costs which amounted to $17.1 million as of March 13, 1987.

While other costs were incurred due to renovations, moving expenses, and the like, these costs were relatively minor and partially offset by the closing of district offices. No budgets were increased as a result of the reorganization. Consequently, any additional costs were either offset by savings or absorbed through other efficiencies.

SAFFORD, AZ, POSTAL FACILITY

Senator DECONCINI. Mr. Tisch, I hate to be parochial, but I would not be doing the job for my constituents if I did not ask you about a major project in Arizona, and that is to call your attention to Safford, AZ. Back in January of this year, I wrote the Postal Service about the possibility of establishing a post office in Safford, AZ. I have not heard back from you yet on that important proposal affecting my State. Can you tell us the status of the proposed Safford, AZ, Post Office project?

Mr. TISCH. Yes, sir; on February 13 we answered you, sir. I only hope that the letter was misplaced in the Senate Post Office and not by the U.S. Postal Service.

Senator DECONCINI. And that is very likely, I must say. February 13——

Mr. TISCH. February 13. We will deliver a copy of the letter to your office.

Basically, we studied the Safford area. We recognize the traffic situation. But basically we think that the facility is very sound. We are working with the community to improve the traffic and the parking situation. Right now in our 5-year plan for replacement and expansion of post offices, we do not have Safford as one of the post offices to be replaced in the next 5 years.

Senator DECONCINI. That is not what I wanted to hear, but you have got to tell it like it is.

What would necessitate Safford being raised up on that 5-year plan? I mean, how was the conclusion reached that it was satisfactory? I have been over there and the traffic is terrible. I am surprised that your people would come to that conclusion, but I respect their professionalism on it. I wonder what would it take to make that position; the location is of a such nature that it would have to be improved? Does the building have to fall down? Do you have to have an accident out in front? What would it take?

Mr. COUGHLIN. Service and cost considerations are the two important key things. But I think what we can do——

Senator DECONCINI. Does that mean service is not growing?

Mr. COUGHLIN. No; the condition of the facility is not hindering our ability to provide a reasonable level of service to the customers there. But I think what we can do is go back and ask these kinds of questions. I am not personally familiar with this particular case, but we can go back and ask.

Senator DECONCINI. May I ask you to do that for us?

Mr. COUGHLIN. Yes; I will.

Senator DECONCINI. Thank you.

[The information follows:]

SAFFORD, AZ, POSTAL FACILITY

Western regional postal officials have conducted a recent review of the Safford, AZ, facility in conjunction with their normal review of the 5-year facility plan. As a result of that review, the Safford facility has been included as a project in the Tucson division's recently submitted 5-year facility plan. Planning for the facility will begin in early 1992. Actual occupancy should occur approximately 2 to 3 years later.

The current facility is determined to be adequate until that time. Should changing circumstances require the revision of the project's priority, this will be addressed during the annual review of the 5-year facility plan.

VERNON, AZ, POST OFFICE CLOSING

Senator DECONCINI. You can get back to me on this one, too—closing of the Vernon, AZ, Post Office.

Might I suggest that if my colleague would like to go vote and then come back, I will go vote. You can take up your questions at the end of that, if you plan to do that.

Senator MIKULSKI. Yes.

Senator DECONCINI. We will wait. Thank you, Senator Mikulski.

I am informed that if the Vernon post office were to be closed, people would have to drive all the way to Show Low or Springerville, over 20 miles out of town, to get the necessary postal service. I understand that the case of Vernon, AZ, is before the Postal Rate Commission.

Can you give us any assurances regarding Vernon's status?

Mr. COUGHLIN. I do not know anything about the details of it, but we will certainly provide it for you.

Senator DECONCINI. Would you please?

Mr. COUGHLIN. Yes.

Senator DECONCINI. Thank you.
[The information follows:]

VERNON, AZ, POST OFFICE CLOSING

On December 16, 1986, the Postal Service posted its final determination to consolidate the post office in Vernon, AZ, and replace it with a contractor operated community post office [CPO] under the administrative jurisdiction of the post office in Show Low, AZ. In accordance with the procedures established under 39 U.S.C. section 404(b)(5), several Vernon residents appealed the proposed consolidation to the Postal Rate Commission. The Commission, which has the authority to affirm the Postal Service's decision or to return the entire matter to the Postal Service for further consideration, was reviewing this appeal in Docket No. A87-8. The Commission's statutory 120-day decisional schedule in this matter would have expired on May 12, 1987.

In accordance with 39 CFR section 224.4(b)(2)(ii)(B), the Assistant Postmaster General, Delivery Services Department, has found that the final determination of the Postal Service to consolidate the Vernon, AZ, Post Office is no longer warranted. It was, therefore, ordered that the final determination be withdrawn, and that the operation of the Vernon Post Office be continued. Consequently, on April 13, 1987, the Postal Service respectfully requested of the Postal Rate Commission that the proceeding be dismissed. The Vernon, AZ, postmaster position will be filled through our selection procedures.

NEW FACILITY PROJECTS—DESERT FOOTHILLS STATION

Senator DECONCINI. Mr. Tisch, we had a meeting out in Arizona a few weeks ago to discuss the proposed Desert Foothills Post Office project. And I must say that Postmaster Arnold Elias was extremely forthcoming and, quite frankly, most patient and tolerant. I want to pay him the highest compliment because he was not required to show up. You were kind enough to respond to my letter suggesting that a hearing be held and I must say that he took some unfair criticism from some of the people there. But I just wanted the record to show that, No. 1, we appreciate your sensitivity to a small, neighborhood problem and, of course, that of Mr. Elias and the regional people out of California.

One of the concerns I still have about the Desert Foothills and other projects like it is that there seems to be very little opportunity for the general public, that will be affected by the post office, to have input early on into the location. There were charges made by the neighbors, some that I think are very erroneous, but one that did clearly stand out is that outside of a published notice, and one meeting under a sycamore tree of some kind out there, they felt that they did not have an opportunity to convey their views.

Is there anything you can suggest or consider so that the people in neighborhoods that are going to have changes in their postal services can feel like they have a little more public input? I realize you have to make economic decisions but I think the process is worthwhile to consider, and maybe you already have some of those things under consideration.

Mr. TISCH. We believe we do. But first we would like to thank you for chairing a meeting on March 18. We think that helped a lot in moving forward in the Desert Foothills station.

As you know, the Postal Service followed the A–95 process. It has always been our feeling, and we can go back and look at it again, that we do give the local people the right to speak with us. As you know, particularly in areas like Tucson, with our excellent postmaster and division manager, Arnold Elias, we have worked with them. We thought we had all the information from the local group.

After March 18, Mr. Elias and other postal officials met with the Puma County Supervisor, Mrs. Dewhurst. We went into greater detail on the investigation of the procedures discussed in that site. We are now forwarding to Supervisor Dewhurst the site planning report this week. We have then hired a local traffic engineering firm to study the traffic with the ingress and egress of that facility. We will continue to look at it. The results of the study will be coordinated with the county staff before proceeding further.

NEW FACILITY PROJECTS—COMMUNITY CONCERNS

Senator DECONCINI. Mr. Tisch, your people did indeed meet with Mrs. Dewhurst, the county traffic engineer, and the engineer, and agreed to comply with all of the local zoning requirements, to the credit of the post office. I have no quarrel with that at all. Even though some people made charges that it was an inside deal and everything else, I am satisfied that is not the case. My concern is that this did not appear to be a process—and maybe it was—where neighbors could go to a local school or a local church and listen to, if not Mr. Elias' representative, someone from your office regarding their concerns. So, while you go through the process of locating a site, at least allow the neighborhood, an opportunity to comment instead of saying: well, you really do not care; you just deal with the political people. That is not a bad rationale. After all, she is elected to represent that area. But they still want to have some input instead of big brother coming from Washington and picking out a location for them.

I wonder if that is possible, has been done, or could be considered?

Mr. TISCH. I will let Mr. Coughlin comment. But to the best of my knowledge in the time I have been in the Postal Service I have felt that the Postal Service is very involved with the local communities and tries to take their interests into consideration but obviously cannot always agree with them.

Senator DECONCINI. Sure, and I understand that. And perhaps it is a matter of semantics or procedure and timing. But public forums seem to be a big thing, at least in my State and Tennessee and in other States. I have talked with other Senators and that is how we all communicate today. We stand up there and take the bricks and take the compliments, too.

I just wondered if that has ever been used or could be used in your process early on.

Mr. COUGHLIN. Mr. Chairman, it certainly has, because I have been at some of those public meetings.

Our formal process, as Mr. Tisch indicated, is developed from the A–95 process prescribed by the Office of Management and Budget. It is standard operating procedure, when you are going to build a new facility, to go to the local governing bodies. They vary from place to place, but it might be a planning commission or a board of supervisors or whatever, and we consult with that body about at least the preferred site area that we are looking at for the building of a station or other postal facility.

Senator DECONCINI. I understand that procedure.

Mr. COUGHLIN. The process or the decision as to whether or not we hold a public meeting for general public input is really driven by whether or not there is a real interest in the community or some real expressed concerns in the community. It will vary from place to place.

Senator DECONCINI. I can appreciate that, and especially when your site people are from out of town, or what have you. Would you normally ask Mrs. Dewhurst, the county supervisor, if she would like to have a public hearing? If so, we will be glad to supply you with someone to come over here and listen.

Mr. COUGHLIN. Usually they suggest it to us.

Senator DECONCINI. They do?

Mr. COUGHLIN. Yes.

Senator DECONCINI. But they did not ask until it was too late in this case. My only thought is that perhaps you could consider building that in early on. I will leave that for your consideration. I think it would help the post office, even though those things are sometimes uncomfortable, it certainly helps us in public life, to at least know why they do not want the B–1 bomber or the new MX missile in their backyard or something.

Mr. TISCH. Oh, we are not that bad.

Senator DECONCINI. Even if you cannot alter them.

My last question, Mr. Tisch, comes from page 14 of your last annual report.

DRUG TRAFFICKING IN THE MAILS FROM HAWAII

The Postal Service Inspection Service plays a significant role in the fight against drug trafficking through the mails. Your comprehensive statement on postal operations says, however, "that investigations profiling possible transit points for narcotics traffickers indicate that the mails are not being used in a significant or systematic manner to transport narcotics contraband."

I am surprised to hear that, particularly since our data show that the mails are the No. 1 mode for shipping drugs from Hawaii, for example, to the mainland. Postal Service, Customs, and DEA surveillance in Hawaii has been very effective in tracking drug smugglers who ship drugs back to the mainland.

In your judgment, has drug trafficking through the mails really tapered off? Are you satisfied that that is the case and, in fact, it is not picking up, at least from these ports such as Hawaii?

Mr. TISCH. I would like our General Counsel, Mr. Cox, to answer that, sir.

Senator DECONCINI. Mr. Cox.

Mr. COX. Mr. Chairman, I guess there are about three things that I ought to say on this. I do understand from the Inspection Service that in the case of Hawaii they ran over a period of a couple of years, three fairly concentrated investigations on the use of mail for shipment, particularly of marijuana, as I understand. These things were called Operation Pele, for obvious Hawaii-related reasons, I guess.

They did ascertain that during the investigation the third time around, as compared with the first couple that there was a sharp diminution in the apparent use of mails. Beyond that, though, you know, we are never really going to know what goes through the mails. Most mail is sealed against inspection. You need a warrant to open it up. You need probable cause, and so forth, and so forth.

The third point, I do have a sense that we probably ought to give you a more thorough answer.

Senator DECONCINI. I would like that.

[The information follows:]

HAWAII NARCOTICS TASK FORCE

Pele I

(October 1983 through Spring 1984)

Operation Pele began as a joint agency task force comprised of U. S. Postal Inspectors, U. S. Attorney, the Drug Enforcement Administration and Hawaii County Police Department. The objective of the operation was to identify, apprehend and prosecute multiple mailers of marijuana. Based on existing intelligence information, a nine-point profile system was developed for the identification and subsequent interception of suspected marijuana parcels. Ten post offices in East and West Hawaii were targeted for initial screening of suspected parcels. They were selected based on known marijuana trafficking. The postmasters of these facilities were briefed so they could educate employees concerning their involvement in routing parcels meeting the profile to Postal Inspectors.

Prior to initiating Pele I, a two-and-one-half week test was conducted involving five of the ten post offices. Two hundred parcels meeting the profile were diverted to Inspectors. These parcels were exposed to trained narcotic detector dogs, and positive alerts were made. Federal search warrants were obtained for the 200 parcels, and all contained marijuana. Based on the success of this test, 1,044 mail parcels were intercepted at the ten post offices over the next month and a half, and 441 federal search warrants were executed. The remaining 600 packages were allowed to continue to their destination, where some controlled deliveries were effected.

Of the 441 search warrants executed, approximately 700 pounds of high quality marijuana with an estimated street value of $1,379,000, were

recovered in addition to the seizure of 45 vehicles valued at an estimated $175,000.

During operation Pele, 11 search warrants were obtained for residences in Hawaii. This resulted in 17 arrests and the seizure of numerous firearms, 5,000 Quaaludes, 69 pounds of marijuana, two-and-one-half pounds of cocaine, heroin, LSD, etc. Also, 12 search warrants were obtained in Alaska, California, Oregon, New York, Pennsylvania and Arizona as a result of the controlled deliveries. Disposition of the 12 search warrants are not known at this time.

Pele II

(August 19 through September 30, 1984)

It was the general consensus of the participating agencies that Pele I was "successful and hurt the marijuana industry initially." However, it was "back to business as usual" soon after the operation was concluded. In light of the above, a second phase (Pele II) was initiated in August 1984. Pele II relied on a three-phase approach:

1. OPERATION "HIT"

   Based on intelligence developed in Pele I, post offices were selected throughout the Islands for randomly scheduled observations resulting in the immediate arrest of mailers of marijuana. These arrests were made in cooperation with the local police.

2. OPERATION "CHOKE"

   This phase consisted of funneling mail into selected locations, where a nine point profile was applied. Any mail meeting the profile was exposed to narcotic detector dogs. Warrants were obtained for pieces which alerted the dogs, and the mail was

seized and opened. Controlled deliveries were effected selectively across the United States.

3. PREVENTION

Through a highly visible publicity program utilizing media coverage, the operations' successes were widely publicized. This phase targeted every significant area of the marijuana growing/selling/shipping process in an effort to discourage such activity.

During Pele II (the Operation Choke Phase, August 20 through September 28, 1984), 512 warrants were served, and 327 packages were found to contain marijuana. Marijuana totaling 372 pounds were seized, and 40 parcels were identified for controlled deliveries. Responses to date indicate that at least 15 arrests (mainland) were made from the deliveries. There were 35 arrests (Hawaiian Islands) made as a result of Operation Hit.

One problem encountered early in Pele II was the low percentage of positive reactions by narcotic detector dogs (33%) because of a liberal profiling concept. The operating plan was changed to require a more stringent application of the profile. This dramatically improved the canines' success rate to 75%.

Pele III

On September 15, 1986, Pele III, a joint task force operation for apprehending persons engaged in the mailing of marijuana from Hawaii, was initiated. The task force, composed of Postal Inspectors, DEA agents and the Hawaii County Police Department began their annual narcotic interdiction program program during the harvest season by focusing on Express Mail leaving the

Island of Hawaii. Forty-seven search warrants were obtained. There were 38 "hits" on subject parcels containing either marijuana or cash. A total of $12,845 was identified as payment for shipments of marijuana and seized pursuant to the search warrants. As of April 17, 1987, eleven individuals had been arrested and seven additional suspects were identified. Additional arrests are pending.

We feel we have accomplished our initial objective to reduce the amount of illegal substances (mostly marijuana) through the mail originating in Hawaii. Our mission was not to eradicate the growth of marijuana in the Hawaiian Islands. Once the United States Attorney agreed to actively publicize our activities, the volume of narcotics mailed significantly dropped. We further believe Operation Pele established an awareness among marijuana growers/mailers that it is not safe to use the Postal Service for narcotic trafficking.

The Inspection Service is committed to seeking long term solutions to the mailing of marijuana in Hawaii. Our future involvement will focus on periodic observations of postal facilities throughout the Islands in an effort to identify and prosecute those individuals responsible for mailing marijuana parcels.

The results of the Pele operations and other investigations conducted by the Postal Inspection Service indicate clearly that the use of the mails by narcotics traffickers has diminished significantly. As indicated in the annual Comprehensive Statement on Postal Operations for Fiscal Year 1986, which was previously supplied to the Committee, there are no indications that the mails are being used in a significant or systematic manner to transport narcotic contraband.

Nonetheless, the Inspection Service will continue its interagency cooperation which is essential to the effective curtailment of the transmission of illegal drugs through the mails.

MAIL DETECTION

Senator DECONCINI. I would also appreciate it, Mr. Cox, if you would take the time to talk to your postal inspectors and gather what information they have from the DEA and Customs.

Mr. COX. I will be glad to do that.

Senator DECONCINI. They tell us a little different story with regard to Hawaii, particularly the capability of tracking where some of that mail goes without opening it.

Mr. COX. I understand.

Senator DECONCINI. But they can detect it, and they have some profiles. Your people are very good in detecting drug shipments, I am told, particularly in the San Diego, San Francisco, or Phoenix, AZ, area.

Mr. COX. Let us get back to you.

Senator DECONCINI. Would you please? Fine.

I have to go vote, Mr. Tisch, I am through with my questioning. If you can wait a few minutes Ms. Mikulski will be back to take her questions up. We will let her close it out. OK?

Mr. TISCH. Yes, sir.

Senator DECONCINI. Thank you.

[A brief recess was taken.]

Senator MIKULSKI [presiding]. The Senate Appropriations Subcommittee on Treasury, Postal Service, and General Government will reconvene.

The Dirksen subway has broken down, so everyone is being delayed on this vote. That is why I was delayed.

I spoke with Senator DeConcini on the way back from the floor. I will be asking my questions and then we will be recessing.

First, Mr. Tisch, let me give you my own personal welcome to the subcommittee and to your job. I think you probably have one of the most difficult jobs in America, and a word of welcome to your deputy who said those 74 field offices were like 74 independent contractors. If you get them to work with a spirit of communication, cooperation, and coordination, I think you will have achieved a great deal. And I think that is a very difficult task to accomplish. If anyone in our Government really has the responsibility of delivering service in the most timely way, therefore, the most nonbureaucratic way, and has the real outreach to individual homes in America, it is the Postal Service. So, we want to do all we can to help you do that.

DISSEMINATION OF INFORMATION ON FERS

My questions are going to be focused on FERS and a couple of other issues.

I know that one of the important things in terms of delivering an efficient Postal Service is good morale. Right now many of your postal workers are preoccupied with the Civil Service Retirement System, whether they should be making transfers and all the personal decisions related to FERS.

I am a big believer in the availability of information. Therefore, my question goes to, how is the information getting out to the mail carrier, to the man and woman in the sorting room, to the men and women out on the streets? I have been advised that management individuals have received FERS booklets but the letter carriers and other nonmanagement postal employees have not. Can you tell me if that's true? I truly believe good information, available with that kind of line management counseling, will help ease the transition to FERS.

Mr. TISCH. I will start and then Mr. Coughlin will carry on.

We are very aware of what you say, Senator Mikulski, and we agree with you 100 percent. For the last 3 weeks we have been working steadily on getting as much information out to the people as possible. We have tried very hard. We have set up a special task force to communicate with the divisions and with the MSC's and the other major offices throughout the country, calling them every day to be sure that the information is given to the employees. We think that we have gotten the information to most every employee. Every communication that goes out from the Postal Service has to do with the FERS.

I just happened to read this last night. This is a postal bulletin that is sent out to about 50,000 organizational units within the Postal Service. We are continually pushing them to get the information out to the employees.

We have used every one of our internal publications. We are using outside publications. We are going to a training program for our human resources people. We agree with you 100 percent. We will do everything possible to get the information before the employees.

Do you have anything you want to add to that?

Mr. COUGHLIN. There is not much I can add to that. I think Mr. Tisch has laid out what it is we have done.

DISTRIBUTION OF THE FERS BOOKLETS

Senator MIKULSKI. Could you give me an estimate of what percentage of nonmanagement employees have received the FERS booklets?

Mr. TISCH. We believe it is 100 percent, but obviously there must be some percentage less than that. The last report we got, which we got yesterday afternoon at 4 o'clock from our task force, is that they believe it is in the hands of every one of our employees. Obviously, I would not agree that it is 100 percent.

Senator MIKULSKI. Please do not misunderstand me. This is not a criticism. I have talked with Ms. Horner. Perhaps our deadlines need to

be altered to make sure we get enough of the information out in enough time for people to really review their personal situations.

Mr. TISCH. As you know, Ms. Mikulski, this is a very complex plan.

Senator MIKULSKI. It sure is.

Mr. TISCH. It is new to most of the employees. We have approximately 180,000 employees in the plan now. So, there are approximately 560,000 employees who will be given information. We are doing everything possible. We are working with them.

We are training our own people. We also are working with Ms. Horner's group. They have been supplying us with information.

Believe me when I tell you that everything possible to help the people is being done, to give them the information so they can make their decision.

FERS TRAINING AND COUNSELING

Senator MIKULSKI. I would just encourage you to do that and to doublecheck and then let us know the results. I think your employees would feel that was fair. And if you, in the course of doing your business, feel that perhaps there needs to be an extension of deadline or something, we would be very happy to work with you on this.

In addition to that, what we have talked with Ms. Horner about is the whole idea of the line supervisor, if you will, also getting some type of briefings or tutorials on this retirement plan. Most of the decision-making by employees is done when they read their booklet. They turn to their supervisor and say, "What does this mean?" While we are trying to set up professional counselors, I don't believe there are going to be enough of them to go around. Most often, people turn to their line supervisor. Am I correct in that?

Mr. COUGHLIN. Yes.

Mr. TISCH. That is correct.

Between April 27 and June 5, we are providing a 1-week training program to about 500 human resources people, just on FERS, and we have detailed the entire Human Resources Department just to do exactly what you said: to work with the people, to get it to the supervisor, and get it to people within the ranks of the Postal Service so they can have all the information.

Senator MIKULSKI. That is right. But, you see, my whole point is the human resources people will not be able to counsel all of your 600,000 employees.

The good information—and I have read what Ms. Horner is putting out—tends to be very, very good. The written information is good. She is talking about video tapes——

Mr. TISCH. We have a video.

Senator MIKULSKI [continuing]. All those other kinds of new technologies.

But once people start reading the material, they will have a series of questions. So, we appreciate that.

POST OFFICE CLOSINGS

I have another question related to rural post offices. I was a Congresswoman from Baltimore, so my experience on the Eastern Shore and in western Maryland has been a new one. I am concerned about service in our rural areas, particularly in rural Maryland.

What is the projection on closing small post offices for the next few years?

Mr. TISCH. We have been closing an average of about 200 to 220 small post offices a year. In no way will we follow the recommendation of the Grace Commission or any other commission from OMB in reference to closing small post offices. For all intents and purposes, the Postal Service is not closing small post offices. What we are doing is just looking at some very few that, when a road comes through or some other major reason that we cannot be in that location.

I think Mr. Coughlin who has had great experience with small post offices, can elaborate on that.

Mr. COUGHLIN. I am not sure great is the right word.

Mr. TISCH. Multi.

Mr. COUGHLIN. Last year I think it was around 215 post offices that were closed. About 165 of those post offices were already closed in terms of their operations, because at some point in the past usually the postmaster turns out to be the owner of the building. The postmaster retired and asked us to vacate the building. We had no other place to go in the community and were forced to close it up, on a temporary basis. At times we go back and we reopen those if we are able to find a facility.

If we are able to work out, within the prescribed procedures called for in the statute, alternate services, we will pursue that. And that is what happened in about, I guess, two-thirds of the process last year.

Senator MIKULSKI. So, your closing has been primarily by attrition, either a development project closes the facility, and development then shifts to another part of the community, or a road goes through but something else is opened a few miles away, or the postmaster, for whatever his or her reason, is retiring and the community is aware of it and other plans are made?

Mr. COUGHLIN. Yes; the procedures we have to follow are very, very intricate. In fact, they have led me to the conclusion that they are so burdensome that we ought not to waste our own staff time pursuing the closing of small post offices unless we have no alternative. That is generally the message that our field people have been given.

Senator MIKULSKI. Do you have any plans to close or consolidate any rural post offices in Maryland?

Mr. COUGHLIN. Not specifically that I am aware of. There may be some that are being looked at or may be vacant, with a postmaster vacancy out there, but I am not specifically aware of any.

Senator MIKULSKI. Well, I am mindful that you have some enormous challenges in terms of where to locate post offices. I know in my own State there has been a major population shift, what was once rural is

now suburban. They take on their own character. A sleepy town called St. Michael's in Talbot County is now turning into a major retirement area for primarily affluent people who get a lot of mail and use a post office. They are post office people. And they are just not going to get the L.L. Bean catalog. Southern Prince Georges County and in Charles County, sleepy little tobacco auctioning towns suddenly are becoming major developments.

I am sure that you are now evaluating not only in my State but in others how to do this, so your capacity keeps pace with real estate.

Mr. COUGHLIN. Yes; in fact I happen to live in one of those kinds of towns in northern Virginia. When I moved in 9 years ago it was a sleepy little town with a few people and a post office about as big as this table. Today there are 20,000 people living there, and the demands are quite different.

You know, we do close officially each—last year I think it was 215 or so post offices. But we also open new facilities each year, not necessarily as independent post offices. But in these growth areas, we will open new branches, new stations to serve the public.

Senator MIKULSKI. And there are new demands.

Mr. COUGHLIN. Yes, absolutely.

Senator MIKULSKI. Absolutely new demands.

Mr. COUGHLIN. Yes.

Senator MIKULSKI. For a new population.

REVENUE FORGONE LEGISLATIVE PROPOSALS

I just want to make one comment about revenue forgone appropriations and then minority hiring. I do not have a question. I was here for the dialog between you and Senator DeConcini. As I understand it, the President is going to propose a new bill for the people in this category in which the blind will get a preferred rate and then other nonprofits would move to a different rate? Can you tell me what your plans are?

Mr. TISCH. Mr. Cox, our General Counsel, will comment on that.

Mr. COX. Senator, I think the administration has indicated that they may propose legislation on that. They did that in connection with the President's budget submission. But we are not intending to propose any legislation of that kind.

Mr. COPPIE. I think the important thing here, Senator Mikulski, is that we have always taken——

Senator MIKULSKI. Can you tell me who you are?

Mr. TISCH. I am sorry——

Mr. COPPIE. Comer Coppie, the Postal Service's chief financial officer, from Baltimore, I might say. I just wanted to let you know, Senator.

I think the important issue here is that, for the Postal Service, we have always looked to the Congress to make the determination on revenue forgone. Whatever the Congress finally concludes for revenue forgone, we are prepared to support that. We do not want it to be an additional cost to the ratepayers of the United States. And that really is the issue.

Now, how the administration proposes to handle this issue, we have preliminary information on that. It has been proposed before. We think it will die in the Congress. But I think the important point is that we are prepared to support the outcome, but we do not want it to be an additional cost to our customers.

Senator MIKULSKI. Well, I think we are both in agreement with that. We think there are other nonprofits beyond the blind who should receive revenue forgone. Many people believe, in this type of communication, support the nonprofits. We do not want to add to your cost, because people have their own consumer price index. I am sure you will agree, Mr. Tisch. It is the price at the gasoline pump. It is the price of a stamp. It is the price of a cup of coffee. While all the Wall Street boys are doing the macro analysis, that is what our constituents are looking at.

We would want to do everything we could to hold the price down.

These nonprofit groups do perform an important function in our society. We are not talking about every little 501(c)(3) that has a newsletter, but there are major groups we're concerned with. We will be working with them.

We also look forward to your advice as the legislation is formulated.

MINORITY PROMOTION RATE

The last question I want to talk about is minority hiring. Since the last reorganization of the service, could you tell me what the promotion rate for minority workers has been in senior grade positions?

Mr. TISCH. Do you have it?

Mr. COX. I think we are going to have to get you that for the record.

Senator MIKULSKI. Fine.

[The information follows:]

MINORITY PROMOTION RATES FOR SENIOR GRADES (LEVEL 23 AND ABOVE)

For the past three quarters since the reorganization of postal management, promotion rates of minorities and women in senior grades (level 23 and above) have averaged: black, 13.3 percent; Hispanic, 4.2 percent; Asian American/Pacific Islander [AA/PI], 2.5 percent; American Indian/Alaskan Native [AI/AN], 0.1 percent; and women, 14.7 percent.

PAY GRADE SCALE

Mr. COX. I can tell you that, if you look at it in terms of a fairly broad expanse—as you may know, Senator, the Postal Service does not use GS and that——

Senator MIKULSKI. I know.

Mr. COX. We have our own brand, as it were.

Senator MIKULSKI. We are like NATO; everybody has their own pay grade scale.

Mr. COX. In our grades 18 through 22, which would typically denote a substantial supervisory responsibility, and again in grades 23 on up, which denotes very major management responsibility, you will see a gradual growth in the proportion occupied by minorities as amongst the

populations in each of those strata. We can get you that. We will be glad to get you the details.

Senator MIKULSKI. I would like to know that. As you know, the Post Office has been one of the places where both blacks and women have had really significant entry level.

Mr. COX. Yes.

Senator MIKULSKI. And then, of course, now have had a great deal of experience and are working to move up in management.

Perhaps counsel or the Deputy Postmaster could tell me, of the Postal Service's 74 divisional directors, how many of them are black, women, or members of another minority?

Mr. COX. Again, we can get you the numbers. Those look pretty good.

Mr. COUGHLIN. I would guess 25 or 30 percent——

Mr. TISCH. I would say one-third, with the number of women we have out there, and blacks and minorities. We have 74. I would say it is close to 25.

Senator MIKULSKI. Is that right?

Mr. TISCH. Yes.

Senator MIKULSKI. How have they improved since the last reorganization?

Mr. TISCH. Do you mean since the 1971 reorganization?

Senator MIKULSKI. Since the 1986 reorganization.

Mr. TISCH. Do you mean with this new one that we just went into, the 1986 reorganization?

Mr. COUGHLIN. We have some comparative data that was put together at the time, but I do not recall the details of it. I think we can provide it for you. It shows you kind of a before-and-after picture of what the minority situation is.

[The information follows:]

MINORITY REPORT COMPARISON

	Prior to realignment		After realignment	
	District manager and affected SCM/PM[1]		Field division GM/PM	
		Percent		*Percent*
White male	76	69	48	65
Black male	19	17	14	19
Hispanic male	8	7	5	7
American Indian male	1	1	1	1
Asian male	1	1	2	3
White female	3	3	1	1
Black female	2	2	2	3
Hispanic female	0		1	1
Total minority/female	34	31	26	35
Total (two vacancies)	110		74	

[1] MSC managers in cities which became divisions.

MINORITY REPORT—APRIL 7, 1987

	Females	Males
PCES II:		
Black	0	2
Hispanic	0	2
Other	0	0
White	1	34
Totals[1]	1	38
PCES I:		
Black	26	97
Hispanic	2	39
Other	1	21
White	66	906
Totals[2]	95	1,063

[1] Includes the five regional postmasters general.
[2] Includes 73 FDGM/PM's.

MINORITY REPORT—APRIL 7, 1987

	Females	Males
REGIONAL POSTMASTERS GENERAL		
Black	0	1
Hispanic	0	1
Other	0	0
White	0	3
Total	0	5
FIELD DIVISION GENERAL MANAGERS/POSTMASTERS		
Black	2	13
Hispanic	1	5
Other	0	3
White	1	48
Total[1]	4	69

[1] One vacant position as of report date.

WORK FORCE PROFILE STATISTICS

Mr. Cox. Incidentally, Senator, harking back to your previous question, I found what I was looking for. In our annual comprehensive statement, to which reference was made earlier in today's hearing, on page 9, you will find a tabular comparison of the kind you were looking for. We would be delighted to submit that for the record.

Senator MIKULSKI. Without objection, it will be inserted into the record.

[The information follows:]

TABLE 2.—WORK FORCE PROFILE FISCAL YEAR 1985 VS. FISCAL YEAR 1986

[In percent]

	Blacks		Hispanic		Other		Women	
	1985	1986	1985	1986	1985	1986	1985	1986
EAS 15–17	22.5	23.1	4.3	4.4	1.8	2.0	24.2	26.0
EAS 18–22	12.9	13.5	3.8	4.1	1.9	1.9	14.1	15.7
EAS 23 and above	10.0	11.1	2.7	2.4	2.3	2.5	7.0	8.4
PCES	9.0	10.1	2.5	3.5	1.3	1.8	5.2	7.8
Representation in the work force	21.2	21.4	5.4	5.7	3.0	3.4	28.5	30.0

AFFIRMATIVE ACTION PLAN

Mr. Cox. Just to give you one for-instance, on levels EAS 23 and above—and, as I say, that is a fairly senior level—blacks moved from 10 percent in 1985 to 11.1 percent in 1986.

It is not dramatic, but it is a continuing——

Senator MIKULSKI. No; it is not dramatic.

Mr. COX [continuing]. Over a period of time growth.

Senator MIKULSKI. What is your goal, and what is your timetable?

Mr. COX. We have an affirmative action plan, and we will have to get you that for the record. I just do not have it——

Senator MIKULSKI. What is your goal, and what is your timetable?

Mr. TISCH. We have it all in printed form issued by our human resources group. We would like to submit it to you, Senator Mikulski, for the record. I could not tell you exactly what our goals are, but we are getting there, in my opinion, very quickly.

In addition, we have 39 officers and we just appointed a new officer from your State of Maryland, Mr. Elwood Moseley, who came in as Assistant Postmaster General for Training, from a Philadelphia insurance company, a man of great qualifications, a black man. Additionally, we have proposed to the White House personnel office an individual to be a Governor, and they are now investigating it. We believe the nomination will come up to the Senate for a hearing. The Postal Service, in 16 years, has had two black governors. When I came in, I thought that was entirely wrong, with the amount of people we have of minority status. We have proposed, and the White House has accepted, a gentleman out of IBM who we hope will go before the Senate for confirmation within the next 45 days.

So, we are very cognizant of the minority situation, and we are working very diligently to increase minority participation.

I think you would be interested to know that I believe that over 50 percent of our postmasters are women.

Senator MIKULSKI. I know. This has been really the way a lot of women have put their kids through college, and that the postmaster usually running a little ma-and-pa store next to it has really offered a very kind, personal, reliable service. She has been everything from the post office mom to getting in the car, when she saw that letter of accep-

tance coming from the U.S. Naval Academy, getting in her car and driving to a home. I mean, we are familiar with that type of individual.

Mr. Tisch, I have a great deal of confidence in your management ability. I was delighted when you were appointed. I think you bring a lot of skills from the private sector that we need and that our Post Office needs to be modern, needs to be as competitive as the private sector. So, I am certainly on your side.

In addition to providing these goals to me, I would like you to review them——

Mr. TISCH. I certainly will.

Senator MIKULSKI [continuing]. And have a constant awareness of them, because I have a feeling that on a day-to-day basis as you ask questions about your affirmative action goals and timetables, you can meet them and meet them expeditiously. We look forward to working with you.

[The information follows:]

AFFIRMATIVE ACTION PLAN - ITS GOALS AND TIME TABLES

The Fiscal Year 1987 Affirmative Action Plan projected vacancies and set targets in three areas. These were: (1) entry level craft positions; (2) Executive and Administrative Schedule (EAS) positions, and (3) postmaster positions.

In the area of entry level craft positions, the USPS projects 57,123 vacancies. After computing underrepresentation of minorities and women, the Postal Service has targeted the following:

White Females	-	16,090
Black Males	-	764
Black Females	-	1,749
Hispanic Males	-	1,500
Hispanic Females	-	1,516
AA/PI Males	-	175
AA/PI Females	-	317
AI/AN Males	-	112
AI/AN Females	-	92

This adds up to 22,315 targeted positions for women and/or minorities. Of these targeted entry level craft positions, 88.6 percent are targeted for women and the remaining 11.4 percent are targeted for minority males.

In the area of EAS positions, the projected vacancies are 5,487. Of these, 1,832 are targeted positions. Specifically, 1,215 (66.3 percent of the targeted positions) are for women and 617 (33.7 percent) are for minority males.

In the postmaster selections, there are 970 vacancies projected. Of these, 113 are targeted for women and 26 are targeted for minority males for a total of 139 targeted postmaster selections.

Our accomplishments in the Fiscal Year 1985 - 1986 change in work force equal employment opportunity profile are identified in the following table. Additionally, a copy of the Postal Service National Affirmative Action Plan for Fiscal Year 1987 is submitted for the record.

FY'85-FY'86 CHANGE IN WORK FORCE EEO PROFILE

Occupational Groups	Years/ % Change	Total		White		Black		Hispanic		Asian American/ Pacific Islander		American Indian/ Alaskan Native	
		All	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
CLERICAL	1986	681316	209853	338168	131923	87217	59647	29924	9951	14844	7391	1310	941
	1985	653162	191645	334666	121987	85089	54856	27773	8325	12791	5641	1198	836
1-14	INC/DEC	28154	18208	3502	9936	2128	4791	2151	1626	2053	1750	112	105
	% Change	4.3	9.5	1.1	8.2	2.5	8.7	7.7	19.5	16.1	31.0	9.4	12.6
INITIAL LEVEL SUPERVISORS	1986	40899	10630	22400	6423	5748	3692	1499	302	524	158	98	55
	1985	39742	9615	22469	5879	5637	3318	1446	253	490	119	85	46
15-17	INC/DEC	1157	1015	-69	544	111	374	53	49	34	39	13	9
	% Change	2.9	10.6	(.3)	9.3	2.0	11.3	3.6	19.4	6.9	32.8	15.3	19.6
TECHNICAL PROFESSIONAL MANAGEMENT	1986	17036	2679	11890	1816	1593	711	622	74	176	52	76	26
	1985	16650	2346	11931	1622	1555	596	574	60	174	43	70	25
18-22	INC/DEC	386	333	-41	194	38	115	48	14	2	9	6	1
	% Change	2.3	14.2	(.3)	12.0	2.4	19.3	8.4	23.3	1.2	20.9	8.6	4.0
PROFESSIONAL MANAGERIAL	1986	4198	354	3287	241	376	88	97	4	73	18	11	3
	1985	4333	302	3467	212	363	72	115	4	73	13	13	1
23 & Above	INC/DEC	-135	52	-180	29	13	16	-18	0	0	5	-2	2
	% Change	(3.1)	17.2	(5.2)	13.7	3.6	22.2	(15.7)	0	0	38.5	(15.4)	200.0

	Years/ %	Total		White		Black		Hispanic		Asian American/ Pacific Islander		American Indian/ Alaskan Native	
		All	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
EXECUTIVES/ OFFICERS	1986	1181	92	933	67	97	22	39	2	13	1	7	0
	1985	752	39	624	31	62	6	19	0	4	2	4	0
PCES I & II	INC/DEC	429	53	309	36	35	16	20	2	9	-1	3	0
	% Change	57.1	135.9	49.5	116.1	56.5	266.7	105.3	200.0	225.0	(50.0)	75.0	0
	1986	744630	223608	376678	140470	95031	64160	32181	10333	15630	7620	1502	1025
TOTAL	1985	714639	203947	373157	129731	92706	58848	29927	8642	13532	5818	1370	908
	INC/DEC	29991	19661	3521	10739	2325	5312	2254	1691	2098	1802	132	117
	% Change	4.2	9.6	.9	8.3	2.5	9.0	7.5	19.6	15.5	47.1	9.6	12.9

AFFIRMATIVE ACTION PLAN

FISCAL YEAR 1987

United States Postal Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-4000
Name and Address of Organization

744,644
Number of Employees Covered by This Plan

David H. Charters
Senior Assistant Postmaster General
Human Resources Group

11/24/86
Date

Preston R. Tisch
Postmaster General

12/1/86
Date

UNITED STATES POSTAL SERVICE
EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

The United States Postal Service is an equal opportunity employer. As such we recognize our responsibility to provide equal opportunities to all individuals in matters of employment. We have established ongoing Affirmative Action/Equal Employment Opportunity Programs and Special Emphasis Programs to ensure the success of our efforts. The U.S. Postal Service Affirmative Action/Equal Employment Opportunity Program and the Special Emphasis Programs have the necessary support from managers and personnel and are characterized by policies and objectives that ensure fair employment practices at every level of the organization.

Postal people are required to comply with the laws which prohibit illegal discrimination in employment because of race, color, sex, religion, national origin, age (40+), and physical or mental handicap. It is also our mission to create an atmosphere of affirmative action and upward mobility, which is free of barriers, so that individuals may progress at their own pace and develop to their full potential.

Specifically, I wish to reaffirm the Postal Service Employment Policy which makes it unlawful to discriminate in employment practices such as recruitment, hiring, training, and promotions. I state unequivocally, this organization will not tolerate those individuals who consider illegal discriminatory factors as a basis for employment decisions. Indeed, all employment actions must be consistent with merit principles.

To move us toward our objectives, the U.S. Postal Service has developed affirmative action plans. Postal managers must take the initiative and insure that the goals established in the plans reach all functional areas and all levels of the work force.

As we pursue our primary mission of providing mail service in a prompt, courteous, and efficient manner, we must extend this same enthusiasm and commitment to our continuing effort toward equal employment opportunity and fair treatment for all employees and applicants for employment in the Postal Service.

Preston R. Tisch
Postmaster General

DEC - 1 1986

CERTIFICATION OF QUALIFICATIONS OF PRINCIPAL EEO OFFICIALS

I CERTIFY THAT THE QUALIFICATIONS OF ALL STAFF OFFICIALS, FULL-TIME AND/OR PART-TIME, CONCERNED WITH ADMINISTRATION OF THE U.S. POSTAL SERVICE EEO PROGRAM, INCLUDING THE EXECUTIVE DIRECTOR, OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY, ALL EQUAL EMPLOYMENT OPPORTUNITY OFFICERS, THE WOMEN'S PROGRAM MANAGER AND COORDINATORS, AND THE HISPANIC PROGRAM MANAGER AND COORDINATORS, HAVE BEEN REVIEWED BY COMPETENT AUTHORITY AND THE INCUMBENTS MEET THE APPROPRIATE STANDARDS FOR THESE POSITIONS.

Preston R. Tisch

PRESTON R. TISCH
POSTMASTER GENERAL

DEC - 1 1986

THE U.S. POSTAL SERVICE AFFIRMATIVE ACTION PLAN FOR FISCAL YEAR 1987 IS ISSUED PURSUANT TO THE REQUIREMENTS OF 29 C.F.R., PART 1613. NOTHING HEREIN IS INTENDED TO REQUIRE UNLAWFUL DISCRIMINATION ON ACCOUNT OF RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE (40+), MENTAL OR PHYSICAL HANDICAP.

NATIONAL CIVILIAN LABOR FORCE

The attached report reflects Civilian Labor Force data reproduced for national affirmative action planning purposes by the Minneapolis Postal Data Center.

This data is based on current 1980 Bureau of the Census information.

JUL 21, 1986
SSB040R1-4

MINNEAPOLIS POSTAL DATA CENTER

NATIONAL CIVILIAN LABOR FORCE REPORT

	TOTAL MEN WOMEN	NONMINORITY MEN WOMEN	MINORITY MEN WOMEN	BLACK MEN WOMEN	HISPANIC MEN WOMEN	ASIAN/PACIFIC MEN WOMEN	AMER INDIAN MEN WOMEN	OTHER MEN WOMEN
GRAND TOTAL	107,763,865	87,987,739	19,776,126	11,019,834	6,345,359	1,723,690	560,720	99,902
	62,345,486	51,509,886	10,835,600	5,663,873	3,844,110	928,427	323,455	58,311
	45,416,694	36,476,169	8,940,525	5,354,632	2,499,498	794,168	236,055	41,074
	100.00%	81.64%	18.35%	10.22%	5.88%	1.59%	0.52%	0.09%
	57.85%	47.79%	10.05%	5.25%	3.56%	0.86%	0.30%	0.05%
	42.14%	33.84%	8.29%	4.96%	2.31%	0.73%	0.21%	0.03%

WORKFORCE PROFILE - FIGURE 3

The attached U.S. Postal Service "National Consolidation" Workforce Profile reflects the total workforce complement at the end of Postal Quarter IV, FY '86.

Level S1 is PCES 1 and level S2 is PCES 2. Level 00 is primarily used to identify the Rural Carrier position, however, it also accounts for approximately 400 nurses. Levels 51 through 55 represent Postmasters A through E respectively. All other numbered levels refer to the actual designated grade levels.

NATIONAL CONSOLIDATION
EMPLOYEES BY LEVEL
PROGRAM NAME SNB2346
HEADQUARTERS, REGIONAL HEADQUARTERS,
SERVICE CENTERS, MSC'S AND BMC'S

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
S1	1,058	90	909	65	96	22	38	2	8	1	7		1,148
	92.1%	7.8%	79.1%	5.6%	8.3%	1.9%	3.3%	.1%	.6%	.0%	.6%	.0%	
S2	33	2	30	2	1		2						35
	94.2%	5.7%	85.7%	5.7%	2.8%	.0%	5.7%	.0%	.0%	.0%	.0%	.0%	
00	25,017	11,579	24,631	11,241	155	197	163	66	23	34	45	41	36,596
	68.3%	31.6%	67.3%	30.7%	.4%	.5%	.4%	.1%	.0%	.0%	.1%	.1%	
01	253	59	164	17	78	40	11	1				1	312
	81.0%	18.9%	52.5%	5.4%	25.0%	12.8%	3.5%	.3%	.0%	.0%	.0%	.3%	
02	2,773	353	1,229	83	1,284	250	185	10	65	8	10	2	3,126
	88.7%	11.2%	39.3%	2.6%	41.0%	7.9%	5.9%	.3%	2.0%	.2%	.3%	.0%	
03	10,366	4,715	6,251	4,107	3,282	503	591	67	208	10	34	28	15,081
	68.7%	31.2%	41.4%	27.2%	21.7%	3.3%	3.9%	.4%	1.3%	.0%	.2%	.1%	
04	44,480	13,792	24,701	5,646	15,296	6,771	3,267	981	1,081	337	135	57	58,272
	76.3%	23.6%	42.3%	9.6%	26.2%	11.6%	5.6%	1.6%	1.8%	.5%	.2%	.0%	
05	315,151	132,678	232,875	83,608	51,198	37,312	21,112	6,937	9,107	4,271	859	550	447,829
	70.3%	29.6%	52.0%	18.6%	11.4%	8.3%	4.7%	1.5%	2.0%	.9%	.1%	.1%	
06	58,118	31,163	37,733	14,521	13,465	12,870	4,004	1,560	2,755	2,108	161	104	89,281
	65.0%	34.9%	42.2%	16.2%	15.0%	14.4%	4.4%	1.7%	3.0%	2.3%	.1%	.1%	
07	3,499	228	2,434	115	840	101	146	7	75	5	4		3,727
	93.8%	6.1%	65.3%	3.0%	22.5%	2.7%	3.9%	.1%	2.0%	.1%	.1%	.0%	

NATIONAL CONSOLIDATION
EMPLOYEES BY LEVEL
PROGRAM NAME SN82346
HEADQUARTERS, REGIONAL HEADQUARTERS,
SERVICE CENTERS, MSC'S AND BMC'S

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
08	900	46	711	17	117	14	36	5	32	10	4		946
	95.1%	4.8%	75.1%	1.7%	12.3%	1.4%	3.8%	.5%	3.3%	1.0%	.4%	.0%	
09	2,363	337	1,791	204	369	100	120	15	80	16	3	2	2,700
	87.5%	12.4%	66.3%	7.5%	13.6%	3.7%	4.4%	.5%	2.9%	.5%	.1%	.0%	
10	161	259	102	153	41	81	10	12	7	13	1		420
	38.3%	61.6%	24.2%	36.4%	9.7%	19.2%	2.3%	2.8%	1.6%	3.0%	.2%	.0%	
11	2,502	6,651	2,039	5,675	330	711	90	138	18	57	25	70	9,153
	27.3%	72.6%	22.2%	62.0%	3.6%	7.7%	.9%	1.5%	.1%	.6%	.2%	.7%	
12	21	50	10	29	9	17	1		1	4			71
	29.5%	70.4%	14.0%	40.8%	12.6%	23.9%	1.4%	.0%	1.4%	5.6%	.0%	.0%	
13	3,330	4,440	3,010	4,098	208	225	83	56	16	19	13	42	7,770
	42.8%	57.1%	38.7%	52.7%	2.6%	2.8%	1.0%	.7%	.2%	.2%	.1%	.5%	
14	2,077	1,365	1,392	808	546	452	97	51	37	48	5	6	3,442
	60.3%	39.6%	40.4%	23.4%	15.8%	13.1%	2.8%	1.4%	1.0%	1.3%	.1%	.1%	
15	20,044	8,008	14,801	5,084	3,886	2,561	1,019	221	266	92	72	50	28,052
	71.4%	28.5%	52.7%	18.1%	13.8%	9.1%	3.6%	.7%	.9%	.3%	.2%	.1%	
16	6,098	1,613	4,708	874	1,009	659	294	40	70	36	17	4	7,711
	79.0%	20.9%	61.0%	11.3%	13.0%	8.5%	3.8%	.5%	.9%	.4%	.2%	.0%	

NATIONAL CONSOLIDATION
EMPLOYEES BY LEVEL
PROGRAM NAME SNB2346
HEADQUARTERS, REGIONAL HEADQUARTERS,
SERVICE CENTERS, MSC'S AND BMC'S

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
17	4,123	1,012	2,994	485	853	475	186	41	81	10	9	1	5,135
	80.2%	19.7%	58.3%	9.4%	16.6%	9.2%	3.6%	.7%	1.5%	.1%	.1%	.0%	
18	5,740	1,305	4,921	955	529	286	238	39	26	15	26	10	7,045
	81.4%	18.5%	69.8%	13.5%	7.5%	4.0%	3.3%	.5%	.3%	.2%	.3%	.1%	
19	1,988	396	1,537	227	321	150	101	9	23	7	6	3	2,384
	83.3%	16.6%	64.4%	9.5%	13.4%	6.2%	4.2%	.3%	.9%	.2%	.2%	.1%	
20	3,112	482	2,590	315	335	133	139	18	26	7	22	9	3,594
	86.5%	13.4%	72.0%	8.7%	9.3%	3.7%	3.8%	.5%	.7%	.1%	.6%	.2%	
21	2,191	321	1,802	213	253	91	91	7	32	7	13	3	2,512
	87.2%	12.7%	71.7%	8.4%	10.0%	3.6%	3.6%	.2%	1.2%	.2%	.5%	.1%	
22	1,326	176	1,079	116	155	51	53	1	30	7	9	1	1,502
	88.2%	11.7%	71.8%	7.7%	10.3%	3.3%	3.5%	.0%	1.9%	.4%	.5%	.0%	
23	1,993	211	1,660	144	223	56	63	1	40	7	7	3	2,204
	90.4%	9.5%	75.3%	6.5%	10.1%	2.5%	2.8%	.0%	1.8%	.3%	.3%	.1%	
24	996	84	880	62	83	20	19	2	11		3		1,080
	92.2%	7.7%	81.4%	5.7%	7.6%	1.8%	1.7%	.1%	1.0%	.0%	.2%	.0%	
25	523	34	466	22	43	10	5		9	2			557
	93.8%	6.1%	83.6%	3.9%	7.7%	1.7%	.8%	.0%	1.6%	.3%	.0%	.0%	
26	271	26	226	14	27	3	8	1	9	8	1		297
	91.2%	8.7%	76.0%	4.7%	9.0%	1.0%	2.6%	.3%	3.0%	2.6%	.3%	.0%	

NATIONAL CONSOLIDATION
EMPLOYEES BY LEVEL
PROGRAM NAME SNB2346
HEADQUARTERS, REGIONAL HEADQUARTERS,
SERVICE CENTERS, MSC'S AND BMC'S

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
27	47	2	44	1			2		1	1			49
	95.9%	4.0%	89.7%	2.0%	.0%	.0%	4.0%	.0%	2.0%	2.0%	.0%	.0%	
28	13	3	12	3			1						16
	81.2%	18.7%	75.0%	18.7%	.0%	.0%	6.2%	.0%	.0%	.0%	.0%	.0%	
29	3		3										3
	100.0%	.0%	100.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
30	14	1	14	1									15
	93.3%	6.6%	93.3%	6.6%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
31	1		1										1
	100.0%	.0%	100.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
33	1		1										1
	100.0%	.0%	100.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
34	2		2										2
	100.0%	.0%	100.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
35	2		2										2
	100.0%	.0%	100.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
41	2	3	2	2		1							5
	40.0%	60.0%	40.0%	40.0%	.0%	20.0%	.0%	.0%	.0%	.0%	.0%	.0%	

NATIONAL CONSOLIDATION
EMPLOYEES BY LEVEL
PROGRAM NAME SNB2346
HEADQUARTERS, REGIONAL HEADQUARTERS,
SERVICE CENTERS, MSC'S AND BMC'S

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
51	20 13.7%	125 86.2%	18 12.4%	115 79.3%	.0%	1 .6%	2 1.3%	7 4.8%	.0%	.0%	.0%	2 1.3%	145
52	21 22.1%	74 77.8%	19 20.0%	73 76.8%	.0%	.0%	2 2.1%	.0%	.0%	.0%	.0%	1 1.0%	95
53	152 15.7%	814 84.2%	145 15.0%	770 79.7%	.0%	3 .3%	2 .2%	26 2.6%	.0%	1 .1%	5 .5%	14 1.4%	966
54	31 19.3%	129 80.6%	30 18.7%	127 79.3%	.0%	.0%	.0%	.0%	.0%	.0%	1 .6%	2 1.2%	160
55	217 18.0%	985 81.9%	209 17.3%	951 79.1%	1 .0%	3 .2%	2 .1%	12 .9%	.0%	.0%	5 .4%	19 1.5%	1,202
	521,033 69.9%	223,611 30.0%	378,178 50.7%	140,943 18.9%	95,033 12.7%	64,169 8.6%	32,183 4.3%	10,333 1.3%	14,137 1.8%	7,141 .9%	1,502 .2%	1,025 .1%	744,644

WORKFORCE PROFILE - FIGURE 3

This Workforce Profile reflects the "Bargaining Unit" (craft) positions for each race/national origin/sex group. There are individual totals for each designated craft group and a grand overall craft total at the end of the report.

Natrona

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
ENTRY LEVEL CRAFT POSITITONS
AS OF SEPT 26, 1986
PROGRAM NAME SNB2400

OCCUPATION	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
CARRIERS				CARRIER CITY OR SPEC									
2310-01XX	179,889	35,099	137,449	24,325	24,856	7,504	12,185	2,519	4,924	623	475	128	214,988
	83.6%	16.3%	63.9%	11.3%	11.5%	3.4%	5.6%	1.1%	2.2%	.2%	.2%	.0%	
SPECIAL DEL MESSGR													
2310-53XX	2,065	268	1,275	127	540	117	174	18	72	5	4	1	2,333
	88.5%	11.4%	54.6%	5.4%	23.1%	5.0%	7.4%	.7%	3.0%	.2%	.1%	.0%	
	181,954	35,367	138,724	24,452	25,396	7,621	12,359	2,537	4,996	628	479	129	217,321
	83.7%	16.2%	63.8%	11.2%	11.6%	3.5%	5.6%	1.1%	2.2%	.2%	.2%	.0%	
CLERKS				MARK UP CLERK AUTOMATED									
0301-41XX	819	5,359	534	3,114	134	1,689	51	302	96	221	4	33	6,178
	13.2%	86.7%	8.6%	50.4%	2.1%	27.3%	.8%	4.8%	1.5%	3.5%	.0%	.5%	
DIST CLK													
2315-04XX	74,094	49,806	53,089	30,320	13,329	14,944	4,575	2,293	2,895	2,049	206	200	123,900
	59.8%	40.1%	42.8%	24.4%	10.7%	12.0%	3.6%	1.8%	2.3%	1.6%	.1%	.1%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
ENTRY LEVEL CRAFT POSITITONS
AS OF SEPT 26, 1986
PROGRAM NAME SNB2400

OCCUPATION	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
PARCEL POST DIST-MACHINE													
2315-06XX	1,994	1,422	1,132	492	638	833	126	53	93	40	5	4	3,416
	58.3%	41.6%	33.1%	14.4%	18.6%	24.3%	3.6%	1.5%	2.7%	1.1%	.1%	.1%	
DIST CLK MACH MPLSM													
2315-13XX	19,760	23,277	11,503	10,174	4,750	9,882	1,642	1,203	1,811	1,937	54	81	43,037
	45.9%	54.0%	26.7%	23.6%	11.0%	22.9%	3.8%	2.7%	4.2%	4.5%	.1%	.1%	
DIST CLK MACH SPLSM													
2315-14XX	1,210	598	1,009	422	102	125	74	28	18	22	7	1	1,808
	66.9%	33.0%	55.8%	23.3%	5.6%	6.9%	4.0%	1.5%	.9%	1.2%	.3%	.0%	
DIST CLK MACH MPLSM TRNEE													
2315-17XX	5,521	8,500	2,878	3,585	1,255	3,261	548	629	813	988	27	37	14,021
	39.3%	60.6%	20.5%	25.5%	8.9%	23.2%	3.9%	4.4%	5.7%	7.0%	.1%	.2%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
ENTRY LEVEL CRAFT POSITITONS
AS OF SEPT 26, 1986
PROGRAM NAME SNB2400

OCCUPATION	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
DIST CLK MACH MPLSM TRNEE													
2315-18XX	144	135	109	106	7	11	22	11	4	7	2		279
	51.6%	48.3%	39.0%	37.9%	2.5%	3.9%	7.8%	3.9%	1.4%	2.5%	.7%	.0%	
DIST WINDOW CLK													
2340-02XX	23,250	21,437	18,863	16,209	2,122	3,989	1,646	693	547	420	72	126	44,687
	52.0%	47.9%	42.2%	36.2%	4.7%	8.9%	3.6%	1.5%	1.2%	.9%	.1%	.2%	
POST OFFICE CLK													
2340-04XX	325	3,920	306	3,823	8	25	8	40	1	5	2	27	4,245
	7.6%	92.3%	7.2%	90.0%	.1%	.5%	.1%	.9%	.0%	.1%	.0%	.6%	
	127,117	114,454	89,423	68,245	22,345	34,759	8,692	5,252	6,278	5,689	379	509	241,571
	52.6%	47.3%	37.0%	28.2%	9.2%	14.3%	3.5%	2.1%	2.5%	2.3%	.1%	.2%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
ENTRY LEVEL CRAFT POSITITONS
AS OF SEPT 26, 1986
PROGRAM NAME SNB2400

OCCUPATION	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
MAIL HANDLERS				MAIL HANDLER									
2315-01XX	37,018	5,950	20,287	1,396	13,013	3,987	2,733	490	879	62	106	15	42,968
	86.1%	13.8%	47.2%	3.2%	30.2%	9.2%	6.3%	1.1%	2.0%	.1%	.2%	.0%	
	37,018	5,950	20,287	1,396	13,013	3,987	2,733	490	879	62	106	15	42,968
	86.1%	13.8%	47.2%	3.2%	30.2%	9.2%	6.3%	1.1%	2.0%	.1%	.2%	.0%	
MAINTENANCE				ELECTRONICS TECH									
0856-01XX	2,878	38	2,188	27	439	7	141		104	4	6		2,916
	98.6%	1.3%	75.0%	.9%	15.0%	.2%	4.8%	.0%	3.5%	.1%	.2%	.0%	
LABOR CUSTODIAL													
3502-03XX	9,749	699	5,861	253	3,074	400	564	25	218	20	32	1	10,448
	93.3%	6.6%	56.0%	2.4%	29.4%	3.8%	5.3%	.2%	2.0%	.1%	.3%	.0%	
3704-02XX	97		57		34		4		2				97
	100.0%	.0%	58.7%	.0%	35.0%	.0%	4.1%	.0%	2.0%	.0%	.0%	.0%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
ENTRY LEVEL CRAFT POSITITONS
AS OF SEPT 26, 1986
PROGRAM NAME SNB2400

OCCUPATION	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
GEN MECHANIC													
4749-02XX	1,639	14	937	8	547	4	123	2	28		4		1,653
	99.1%	.8%	56.6%	.4%	33.0%	.2%	7.4%	.1%	1.6%	.0%	.2%	.0%	
4801-06XX	125		96		18		5		5		1		125
	100.0%	.0%	76.8%	.0%	14.4%	.0%	4.0%	.0%	4.0%	.0%	.8%	.0%	
5313-03XX	46		26		18		2						46
	100.0%	.0%	56.5%	.0%	39.1%	.0%	4.3%	.0%	.0%	.0%	.0%	.0%	
MAINT MECH MPE													
5342-01XX	5,088	63	3,633	42	1,014	16	227	2	208	3	6		5,151
	98.7%	1.2%	70.5%	.8%	19.6%	.3%	4.4%	.0%	4.0%	.0%	.1%	.0%	
	19,622	814	12,798	330	5,144	427	1,066	29	565	27	49	1	20,436
	96.0%	3.9%	62.6%	1.6%	25.1%	2.0%	5.2%	.1%	2.7%	.1%	.2%	.0%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
ENTRY LEVEL CRAFT POSITITONS
AS OF SEPT 26, 1986
PROGRAM NAME SNB2400

OCCUPATION	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
MOTOR VEHICLE				MOTOR VEH OPER									
5703-02XX	3,926	77	1,962	30	1,620	47	283		52		9		4,003
	98.0%	1.9%	49.0%	.7%	40.4%	1.1%	7.0%	.0%	1.2%	.0%	.2%	.0%	
TRACTOR TRAILER OPER													
5756-01XX	3,036	14	1,340	9	1,551	5	115		20		10		3,050
	99.5%	.4%	43.9%	.2%	50.8%	.1%	3.7%	.0%	.6%	.0%	.3%	.0%	
AUTOMOTIVE MECH													
5823-03XX	2,443	9	1,758	5	429	2	177	2	74		5		2,452
	99.6%	.3%	71.6%	.2%	17.4%	.0%	7.2%	.0%	3.0%	.0%	.2%	.0%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
ENTRY LEVEL CRAFT POSITITONS
AS OF SEPT 26, 1986
PROGRAM NAME SNB2400

OCCUPATION	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
AUTOMOTIVE MECH													
GARAGEMAN													
6955-02XX	499		277		176		40		5		1		499
	100.0%	.0%	55.5%	.0%	35.2%	.0%	8.0%	.0%	1.0%	.0%	.2%	.0%	
	9,904	100	5,337	44	3,776	54	615	2	151		25		10,004
	99.0%	.9%	53.3%	.4%	37.7%	.5%	6.1%	.0%	1.5%	.0%	.2%	.0%	
RURAL CARRIERS								*					
2325-01XX	24,995	11,257	24,606	11,061	151	83	162	58	31	15	45	40	36,252
	68.9%	31.0%	67.8%	30.5%	.4%	.2%	.4%	.1%	.0%	.0%	.1%	.1%	
	24,995	11,257	24,606	11,061	151	83	162	58	31	15	45	40	36,252
	68.9%	31.0%	67.8%	30.5%	.4%	.2%	.4%	.1%	.0%	.0%	.1%	.1%	
	400,610	167,942	291,175	105,528	69,825	46,931	25,627	8,368	12,900	6,421	1,083	694	568,552
	70.4%	29.5%	51.2%	18.5%	12.2%	8.2%	4.5%	1.4%	2.2%	1.1%	.1%	.1%	

POSTMASTER WORKFORCE PROFILE

The attached U.S. Postal Service Workforce Profile reflects the postmaster incumbent complement by levels at the end of Postal Quarter IV, FY-86. There were approximately 2,084 vacancies at the end of this Quarter, total authorized positions equaled 29,459.

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
POSTMASTERS
(SORTED BY REGION-DIVISION-MSC)
AS OF SEPT. 26, 1986
PROGRAM NAME SNB2341

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
LEVEL 17 AND BELOW													
11	1,686	4,426	1,597	4,274	28	28	36	54	3	5	22	65	6,112
	27.5%	72.4%	26.1%	69.9%	.4%	.4%	.5%	.8%	.0%	.0%	.3%	1.0%	
13	2,513	3,909	2,424	3,799	32	33	42	37	2	4	13	36	6,422
	39.1%	60.8%	37.7%	59.1%	.4%	.5%	.6%	.5%	.0%	.0%	.2%	.5%	
14	1		1										1
	100.0%	.0%	100.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
15	3,003	2,293	2,881	2,213	40	25	59	28		1	23	26	5,296
	56.7%	43.2%	54.3%	41.7%	.7%	.4%	1.1%	.5%	.0%	.0%	.4%	.4%	
17	4	2	3	2	1								6
	66.6%	33.3%	50.0%	33.3%	16.6%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
51	20	125	18	115		1	2	7				2	145
	13.7%	86.2%	12.4%	79.3%	.0%	.6%	1.3%	4.8%	.0%	.0%	.0%	1.3%	
52	21	74	19	73			2					1	95
	22.1%	77.8%	20.0%	76.8%	.0%	.0%	2.1%	.0%	.0%	.0%	.0%	1.0%	
53	152	814	145	770		3	2	26		1	5	14	966
	15.7%	84.2%	15.0%	79.7%	.0%	.3%	.2%	2.6%	.0%	.1%	.5%	1.4%	
54	31	129	30	127							1	2	160
	19.3%	80.6%	18.7%	79.3%	.0%	.0%	.0%	.0%	.0%	.0%	.6%	1.2%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
POSTMASTERS
(SORTED BY REGION-DIVISION-MSC)
AS OF SEPT. 26, 1986
PROGRAM NAME SNB2341

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
55	217	985	209	951	1	3	2	12			5	19	1,202
	18.0%	81.9%	17.3%	79.1%	.0%	.2%	.1%	.9%	.0%	.0%	.4%	1.5%	
	7,648	12,757	7,327	12,324	102	93	145	164	5	11	69	165	20,405
	37.4%	62.5%	35.9%	60.3%	.4%	.4%	.7%	.8%	.0%	.0%	.3%	.8%	
LEVEL 18 AND ABOVE													
01	198	16	159	11	26	4	8	1	2		3		214
	92.5%	7.4%	74.2%	5.1%	12.1%	1.8%	3.7%	.4%	.9%	.0%	1.4%	.0%	
18	2,780	649	2,613	583	59	42	91	16	1	2	16	6	3,429
	81.0%	18.9%	76.2%	17.0%	1.7%	1.2%	2.6%	.4%	.0%	.0%	.4%	.1%	
19	6	3	4		2	3							9
	66.6%	33.3%	44.4%	.0%	22.2%	33.3%	.0%	.0%	.0%	.0%	.0%	.0%	
20	1,670	215	1,531	177	64	30	65	3	3	1	7	4	1,885
LEVEL 18 AND ABOVE													
	88.5%	11.4%	81.2%	9.3%	3.3%	1.5%	3.4%	.1%	.1%	.0%	.3%	.2%	
21	702	57	610	47	43	7	35	3	5		9		759
	92.4%	7.5%	80.3%	6.1%	5.6%	.9%	4.6%	.3%	.6%	.0%	1.1%	.0%	

FIGURE 3: WORKFORCE PROFILE
BY SEX AND MINORITY CODE
POSTMASTERS
(SORTED BY REGION-DIVISION-MSC)
AS OF SEPT. 26, 1986
PROGRAM NAME SNB2341

LEVEL	TOTAL MALE	TOTAL FML	WHT MALE	WHT FML	BLK MLE	BLK FML	HISP MALE	HISP FML	AAPI MALE	AAPI FML	AIAN MALE	AIAN FML	TOTAL
22	447	31	386	24	29	6	29	1	1		2		478
	93.5%	6.4%	80.7%	5.0%	6.0%	1.2%	6.0%	.2%	.2%	.0%	.4%	.0%	
23	25		20		2		3						25
	100.0%	.0%	80.0%	.0%	8.0%	.0%	12.0%	.0%	.0%	.0%	.0%	.0%	
24	126	13	108	10	10	2	5	1	3				139
	90.6%	9.3%	77.6%	7.1%	7.1%	1.4%	3.5%	.7%	2.1%	.0%	.0%	.0%	
25	10	1	9	1	1								11
	90.9%	9.0%	81.8%	9.0%	9.0%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
26	18		17		1								18
	100.0%	.0%	94.4%	.0%	5.5%	.0%	.0%	.0%	.0%	.0%	.0%	.0%	
27	3		2				1						3
	100.0%	.0%	66.6%	.0%	.0%	.0%	33.3%	.0%	.0%	.0%	.0%	.0%	
	5,985	985	5,459	853	237	94	237	25	15	3	37	10	6,970
	85.8%	14.1%	78.3%	12.2%	3.4%	1.3%	3.4%	.3%	.2%	.0%	.5%	.1%	
	13,633	13,742	12,786	13,177	339	187	382	189	20	14	108	175	27,375
	49.8%	50.1%	46.7%	48.1%	1.2%	.6%	1.3%	.6%	.0%	.0%	.3%	.6%	

FIGURE 7

Summary of Annual Goals

The attached Figure 7's reflect the National Summary of goals for: bargaining unit (craft) positions, non-bargaining unit positions (EAS levels), and postmaster positions.

The data was obtained from the goals developed within five regional Affirmative Action plans, the Headquarters Affirmative Action plan and the Inspection Service Affirmative Action plan.

Figure 7

SUMMARY

AFFIRMATIVE ACTION PLAN

Name of Organization

FISCAL YEAR 1987

USPS National Summary

ENTRY LEVEL CRAFT POSITIONS

GROUP	CLERK	CARRIER	MAILHANDLER	MAINTENANCE	MOTOR VEHICLE	RURAL CARRIER	TOTAL
White Female	5,973	6,521	1,678	884	368	666	16,090
Black Male	432	167	62	11	13	79	764
Black Female	399	858	172	177	60	83	1,749
Hispanic Male	815	494	113	33	13	32	1,500
Hispanic Female	626	587	165	86	26	26	1,516
AA/PI — Male	85	40	35	10	3	2	175
AA/PI — Female	68	174	53	15	5	2	317
AI/AN — Male	55	34	5	4	1	13	112
AI/AN — Female	46	38	4	2	1	1	92
Group Totals	8499	8,913	2,287	1,222	490	904	22,315
Projected FY-87 Number of Vacancies	25,172	20,894	5,300	2,688	1,051	2,018	

Total Projected Entry Level Craft Vacancies for FY-87 57,123

FIGURE 7

EAS GOAL SUMMARY
(EXCLUDING POSTMASTER POSITIONS)
AFFIRMATIVE ACTION PLAN

Name of Organization

USPS National Summary

FISCAL YEAR 1987

GROUP	Levels 7 - 14	Levels 15 - 17	Levels 18 - 22	Levels 23 - Above		Total Goals All Levels
White Female	96	434	68	10		608
Black Male	92	251	57	9		409
Black Female	113	380	32	2		527
Hispanic Male	28	91	15	5		139
Hispanic Female	5	26	6	0		37
AA/PI -- Male	16	34	8	4		62
AA/PI -- Female	15	16	4	0		35
AI/AN -- Male	0	7	0	0		7
AI/AN -- Female	0	7	0	1		8
Group Level Totals	365	1,246	190	31		1,832
Number of Vacancies	885	3,763	734	105	=	5,487

FIGURE 7

SUMMARY

AFFIRMATIVE ACTION PLAN

Name of Organization

FISCAL YEAR 1987

USPS National Summary

NON-BARGAINING POSITIONS
(Excluding Postmasters)

GROUP	EAS 7	EAS 8	EAS 9	EAS 10	EAS 11	EAS 12	EAS 13	EAS 14	Total Goals Levels 7 - 14
White Female	0	0	1	19	35	0	24	17	96
Black Male	2	0	2	1	44	0	23	20	92
Black Female	4	0	15	0	37	1	15	41	113
Hispanic Male	0	0	0	1	15	0	8	4	28
Hispanic Female	0	0	0	0	4	0	0	1	5
AA/PI — Male	0	2	0	0	3	1	4	6	16
AA/PI — Female	1	8	0	0	0	0	1	5	15
AI/AN — Male	0	0	0	0	0	0	0	0	0
AI/AN — Female	0	0	0	0	0	0	0	0	0
Group Level Totals	7	10	18	21	138	2	75	94	365

Number of Vacancies: 11 + 14 + 34 + 32 + 291 + 3 + 210 + 290 = 885

FIGURE 7

SUMMARY

AFFIRMATIVE ACTION PLAN

Name of Organization

USPS National Summary

FISCAL YEAR 1987

NON-BARGAINING POSITIONS
(Excluding Postmasters)

GROUP	EAS 15	EAS 16	EAS 17	Total Goals Levels 15 - 17
White Female	318	83	33	434
Black Male	161	47	43	251
Black Female	245	74	61	380
Hispanic Male	58	16	17	91
Hispanic Female	16	8	2	26
AA/PI -- Male	16	9	9	34
AA/PI -- Female	11	3	2	16
AI/AN -- Male	6	0	1	7
AI/AN -- Female	6	1	0	7
Group Level Totals	837	241	168	1,246
Number of Vacancies	2,500	+ 841	+ 422	= 3,763

FIGURE 7

SUMMARY

AFFIRMATIVE ACTION PLAN

Name of Organization

FISCAL YEAR 1987

USPS National Summary

NON-BARGAINING POSITIONS
(Excluding Postmasters)

GROUP	EAS 18	EAS 19	EAS 20	EAS 21	EAS 22	Total Goals Levels 18 - 22
White Female	32	10	13	13	0	68
Black Male	34	6	13	3	1	57
Black Female	16	5	6	4	1	32
Hispanic Male	8	4	2	0	1	15
Hispanic Female	2	0	1	1	2	6
AA/PI — Male	1	0	3	2	2	8
AA/PI — Female	0	0	1	1	2	4
AI/AN — Male	0	0	0	0	0	0
AI/AN — Female	0	0	0	0	0	0
Group Level Totals	93	25	39	24	9	190

Number of Vacancies: 309 + 132 + 135 + 111 + 47 = 734

FIGURE 7

SUMMARY

AFFIRMATIVE ACTION PLAN

Name of Organization

USPS National Summary

FISCAL YEAR 1987

NON-BARGAINING POSITIONS
(Excluding Postmasters)

GROUP	EAS 23	EAS 24	EAS 25	EAS 26	EAS 27	Total Goals Levels 23 & Above
White Female	4	5	1	0	0	10
Black Male	1	7	1	0	0	9
Black Female	1	0	1	0	0	2
Hispanic Male	1	2	1	1	0	5
Hispanic Female	0	0	0	0	0	0
AA/PI -- Male	0	3	1	0	0	4
AA/PI -- Female	0	0	0	0	0	0
AI/AN -- Male	0	0	0	0	0	0
AI/AN -- Female	0	1	0	0	0	1
Group Level Totals	7	18	5	1	0	31

Number of Vacancies: 37 + 51 + 14 + 2 + 1 = 105

FIGURE 7

SUMMARY

AFFIRMATIVE ACTION PLAN

Name of Organization

FISCAL YEAR 1987

USPS National Summary

POSTMASTER POSITIONS

GROUP	Level 15	Level 18	Level 20	Level 21	Level 22	Level 24	TOTAL PM GOALS
White Female	57	25	5	3	2		92
Black Male	7	2	2	1	1		13
Black Female	7	5	1	1	1		15
Hispanic Male	4	1	2	1	1		9
Hispanic Female	2		1	1			4
AA/PI — Male			1			1	2
AA/PI — Female				1			1
AI/AN — Male	2						2
AI/AN — Female	1						1
Group Totals	80	33	12	8	5	1	139

Number of Vacancies: 470 + 263 + 135 + 50 + 42 + 10 = 970

BARRIER ANALYSIS

Where underrepresentation was found to exist, barrier analyses were formulated and specific actions to alleviate the barriers were identified on the Figure 8s listed in this section. The designated officials responsible for these special actions are listed in this section as well.

FIGURE 8

BARRIER ANALYSIS

Name of Organization U.S. Postal Service — Grade Level/Position Clerk/Carrier Mailhandler

Fiscal Year 1987

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	1. The following listed impediments have been determined to be contributing factors to the low percentages of protected group members enhancing their potential for employment with the U.S. Postal Service.					
	(A) Examination announcements not fully reaching all segments of the recruiting community.	1-A. Field Directors, Human Resources and MSC Directors of E&LR: In addition to keeping their resource recruitment list current, will develop an action plan for assuring that all segments of the recruitment community are being notified when exams are opened. This action plan will be reported on quarterly and made part of the Division EEO Executive Committee meeting minutes.		X		
	(B) Applicants not fully aware of the procedures for applying and the requirements of the job.	1-B. Managers, Postal Employee Development Centers (PEDC) will participate in community, high school, and college job fairs. Special Emphasis Program personnel and Examination Specialists will conduct/assist in community training on the proper method of taking Postal entrance examinations. There should be a complete orientation of the jobs available, including descriptions, requirements, and other relevant information.		X		

FIGURE 8

BARRIER ANALYSIS

Name of Organization U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Clerk/Carrier Mailhandler

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	(C) Lack of a comprehensive recruitment effort by the Postal Service in some locations.	1-C. Field Division General Managers/ Postmasters and NSC Managers will intensify their efforts to recruit protected group members at their installations. While there will be some variations based on locality and organizational make-up the following basic outline should be adhered to:				
		a. Utilize Affirmative Action Program Coordinators and special emphasis personnel to assist with this endeavor.		X		
		b. Update mailing lists for female and minority organizations.		X		
		c. Solicit these organizations' assistance in further reaching these groups by inviting them to AA/EEO Advisory Committee meetings and appropriate gatherings.		X		
		d. Advise Special Emphasis Hispanic and Women's Program Coordinators of vacancy announcements at least 30 days in advance.	X			
		e. Advertise effectively and include the statement that, "The U.S.Postal Service is an equal opportunity employer."	X			

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FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Clerk/Carrier Mailhandler

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
		f. Set up various workshops for examination training in locations convenient to the underrepresented groups targeted for recruitment.		X		
		g. Report on the effectiveness of the recruitment endeavors quarterly at the regional EEO Executive Committee meetings.		X		
	(D) Examination sites and/or test schedules conflict with or discourage applicants from full participation.	1-D. Employment Officers will make every effort to select examination sites and schedules that provide maximum opportunity to all segments of the community. Special Emphasis Hispanic and Women's Program Coordinators and Affirmative Action Programs Coordinators should participate in examination site selection to ensure maximum participation from minority groups and women. A profile of the sites will be developed which includes location, impediments, and proposed solutions. This profile will be made part of the recruitment program to be reported on at the regional EEO Executive Committee meetings.	X			
	(E) Low scores on examination place these groups in a lower percentile thereby making their chances of being hired negligible.	1-E. Management Sectional Centers will offer training sessions to interested communities on "How to Prepare for the Postal Service Entrance Examination" prior to open testing.		X		

FIGU..E 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Clerk/Carrier Mailhandler

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Females	(F) Lower level employees are not taking advantage of the upward mobility opportunity provided through in-service exams and non-competitive application.	Postal Employee Development Center officials will evaluate the trainers, including community members, who conduct sessions on "How to Prepare for the Postal Service Entrance Examination" and ensure that the trainers are properly trained.				
		1-F. Postmasters will utilize alternate selection procedures (transfers, reinstatements and in-service examinations), when practical, to fill available vacancies.	X			
		MSC Managers will encourage lower level employees to take in-service (clerk-carrier) examinations by fully developing their upward mobility programs. The programs will consist of career counseling, job targeting, on-the-job training with evaluation and feedback system, and orientation on taking exams, when applicable.				
	(G) The lack of resources, including personnel for child care, has limited this group's potential for employment and staying employed.	1-G. Directors, Mail Processing will ensure that a list of local child care centers is compiled, and shall ensure that individuals responsible for recruiting and conducting sessions on "How to		X		

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Clerk/Carrier Mailhandler

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
		Prepare for the Postal Service Entrance Examination" provide information to applicants regarding child care centers. Assistance will be provided by Affirmative Action Programs Coordinators and Special Emphasis Hispanic and Women's Coordinators domiciled in Divisions and NEC offices.				
All Females	2. Feedback from USPS officials with the responsibility for recruitment, testing, and hiring has provided the following insight: Females are not generally attracted to the carrier positions due to the outside nature of the work, i.e., dogs, lifting, standing, walking and the fact that this position has been stereotyped as "male-oriented."	2. Directors of Customer Service, E&LR Directors and Affirmative Action Programs Coordinators will establish a campaign to change the advertising image by showing a female carrier performing carrier duties in a more positive light. The methodology for this program may include posters, special brochures, audio-visuals, training cassettes and demonstrations at job fairs and career oriented workshops.			X	

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Mailhandler

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Females	3. The perception about this position being a "male only" job has been addressed in the entry level categories. One of the major impediments barring females from full employment in the Mailhandler craft is the strength and stamina test. This barrier seems equally divided between initially discouraging women from applying and failing the lifting process once they are selected.	3. See Barrier 2 and special actions to overcome it.			X	
All Protected Groups	4. The analysis for this job reveals a low percentage of applicants from protected groups in certain areas. In many instances protected groups score low on the test, which causes an inability to reach them on the hiring register using the rule of three.	4-A. MSC Managers will designate appropriate training personnel to give pre-exam training to protected groups. Expand recruitment activities in high schools and colleges with large enrollments of of members of protected groups.	X			
		4-B. Directors, Human Resources and E&LR Directors will monitor appointments quarterly to ensure that selections are being made without regard to non-meritorious factors. The results will be reported on at the Division and Regional Executive Committee meetings.		X		

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Mailhandler

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
Hispanic Male and Female	5. Strength and stamina tests for Mailhandlers need to be coordinated with current postal safety requirements. These requirements may constitute a barrier to the employment of Hispanics and women, or those of slender build.	5. Director, Office of Selection and Evaluation (Test Evaluation and Development Branch) will review the mailhandler strength and stamina requirements and modify them in accordance with existing safety procedures. (PS 2481) (P-13, sec. 232-9f)				X

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Motor Vehicle Operator

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Females	6. This craft has been dominated by males historically. This, as well as some requirements of the position has, on a number of occasions, discouraged females from applying.	6. Affirmative Action Programs Coordinators will develop a resource file identifying females with some background and/or potential for these positions. In developing said file, an alliance should be established with motor vehicle training schools and institutions which have successfully eliminated the barriers in question.		X		
AI/AN AA/PI Male and Female	7. The lack of experience and technical skills eliminate and discourage employees from seeking this position.	7-A. Affirmative Action Programs Coordinators and Managers, Fleet Operations will use female motor vehicle operators whenever possible, during community outreach activities to highlight the attractiveness of the position and to act as role models.		X		
		7-B. Managers, Fleet Operations, will assure that employees are aware of requirements for positions in the Motor Vehicle Craft and the means by which employees could attain required skills.	X			

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Maintenance

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Groups Emphasis on Females	8. All groups are underrepresented in this craft in part due to the restriction on hiring preference eligible veterans. This barrier impacts females more so than males.	8. MSC Managers will direct their personnel with the responsibility for hiring to include recruitment efforts at military facilities, technical and trade schools, and unemployment offices until the proportion in the workforce is representative of the percentages within the pool.		X		
Females	9. A perception prevails throughout the organization which has further hindered the Postal Service's ability to reach its ultimate goal of improving the protected class profile in this craft. "Only men are qualified for maintenance positions." "Few females and minorities are interested in mechanical work." Females "perceive" the position to be for men.	9-A. Postmasters, will ensure that females employed in these positions will be used as available during community outreach activities and career awareness sessions in particular to highlight attractiveness of these positions and to act as role models demonstrating that females can work in these position and other females should not be discouraged from applying.	X			
		9-B. Special Emphasis Hispanic and Women's Program Coordinators will develop a resource file identifying females with maintenance background and/or potential.	X			
		9-C. When vacancies are anticipated, Special Emphasis Hispanic and Women's Program Coordinators and Maintenance Managers will actively recruit females who have been identified through the resource file.		X		
		9-D. MSC Managers will allocate resources to their AA/EEO Advisory Committees for the purpose of developing a program for elimination of myths and stereotypes.		X		

FIGU 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Rural Carrier

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	10. The selection procedures for rural carriers allows each rural carrier to select their own relief, with the recruiting being done basically by word-of-mouth. As the majority of rural carriers are non-minority, this recruiting method could negatively impact recruitment and selection of minorities.	10. In addition to establishing a task force at Headquarters to look at barriers which have national implications, Employment officers will review selections and instruct rural carriers to apply the Postal Service's EEO policy when considering individual for relief carrier positions.	X			
All Protected Groups	11. The National Agreement previously controlled selection procedures for relief rural carriers.	11. Field Division General Managers/Postmaster, and MSC Managers should review the National Agreement article 12.3 B.3.d and use it as a guide toward eliminating underrepresentation of females in the rural carrier craft.		X		

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position EAS 7 - 14

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Group Males	12. Since the positions in this category are mostly clerical and secretarial, traditionally they have been held by females. This posture contributes to the low percentage of males.	12. The Field Division General Manager/ Postmaster and MSC Managers will instruct their staff members to undertake the following set of initiatives to eliminate this barrier:				
		a. During recruitment periods, secretarial schools and other sources capable of referring secretarial and clerical applicants will be notified of career opportunities in the Postal Service.	X			
		b. Supervisors will give EEO talks emphasizing the positive aspects of the positions and employees will be encouraged to seek developmental details, as available, to the positions.		X		
		c. Accounting Period Goal Monitoring Reports will be reviewed at the Division levels with appropriate input/feedback from/to the MSCs.				X

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position EAS 7 - 15 Administrative/Clerical Support

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups Male and Female	The barriers and special actions listed here pertain exclusively to Headquarters and its associate support facilities.					
	13. Barrier analysis conducted at Headquarters for this group revealed the following set of core problems:	13. The General Manager, Headquarters Personnel Division will implement these special actions to overcome the barriers:				
	- Lack of specialized skills and experience.	a. Reevaluate positions and remove selection factors that are not used in position, i.e., shorthand.			X	
	- Perception that there is no career advancement.	b. Replace some stenographic positions with word processing positions.	X			
	- Monetary decrease by those going from PS to EAS schedule.	c. Counsel employees and help them identify career goals as well as what is required to achieve them.		X		
		d. Support employee training requests and provide or promote opportunities for training within and outside the Postal Service.	X			
		e. Encourage employees to apply for positions which will provide them specialized training and/or broaden their postal experience.				X
		f. Fill more lower level positions with qualified protected group category employees to build a pool for other vacancies.				X

FIGUR_ 8

BARRIER ANALYSIS

Name of Organization U.S. Postal Service
Fiscal Year 1987

Grade Level/Position EAS 7 - 15 Administrative/Clerical Support

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
		g. Continue to consider career ladder program in order to enhance the career opportunity aspect of positions.		X		
		h. Explain that salary decrease may only be temporary due to promotion possibilities in the EAS schedule.	X			
		i. Explore provision of a financial incentive to switch from PS to EAS schedule.				X
All Protected Groups	14. Geographical restrictions limit the number of applicants.	14. Senior Assistant Postmaster General, Human Resources will consider expanding area of consideration further than 50-mile radius.	X			
All Protected Groups	15. Secretarial positions are perceived as female-oriented which creates a lack of interest by qualified males.	15-A. General Manager, Headquarters Personnel will utilize available in-house news media, i.e., Postmark and Postal Life to highlight males currently employed in clerical positions at Headquarters and servicewide.		X		
		15-B. All Affirmative Action Programs Coordinators and Special Emphasis Program Personnel will conduct outside recruitment drives at high schools, vocational and secretarial schools for the purpose of identifying protected group males in order to attract them for possible employment in these positions.		X		

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position EAS 7 - 15 Administrative/Clerical Support

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
White Female; Black Male & Female; Hispanic Male and Female; AI/AN Male	16. Many members of underrepresented groups lack the skill requirements to bid on these positions, and many lack interest in applying for the few vacancies posted.	16-A. MSC Managers will give special attention to the attitudinal aspects of this problem by surveys or inquiries as to why there is a lack of interest. Significant findings with Postal Service implications should be forwarded to the regional Employee Relations office.			X	
		16-B. All Managers with the responsibility for supervising and developing subordinates have an obligation to convey information that additional training and experience will better qualify these employees for positions.		X		
		16-C. Director, E&LR will utilize Affirmative Action Program Coordinators and Special Emphasis Programs personnel to inform employees of the required skills needed and encourage attainment through self-development.		X		
		16-D. Installation Heads will provide information on higher level positions through newsletters, bulletin boards, five-minute EEO talks and daily workroom floor announcements.			X	

FIGU..2 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service **Grade Level/Position** EAS 13 - 16
Fiscal Year 1987

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
Hispanic Male and Female	17. Hispanic employee selections for 204B assignments and other higher level management programs remain low. Thus, their promotional opportunities are hampered by negating their ability to enter this area of consideration and by barriers to their eventual upward mobility.	17-A. Installation Heads and E&LR Directors will review and monitor candidate listings to ensure that interested qualified Hispanics are afforded all specialized training needed to develop and enhance their experience so that they may successfully compete for initial and mid-level supervisory positions.		X		
		17-B. Installation Heads and E&LR Directors will establish and maintain a resource file of qualified Hispanics. Provide this data to those managers responsible for the selection of candidates for these special assignments.		X		
		17-C. Installation Heads and E&LR Directors will monitor listings of initial level supervisor candidates, i.e., candidate list procedures; individual announcement; written application procedures; to ensure Hispanic utilization on 204B and other higher level assignments.			X	
Hispanic Male and Female	18. The low percentage of Hispanics participating as members of evaluation boards or promotion advisory panels has been detrimental to Hispanics in some postal areas.	18. General Supervisors, Mail Processing will establish a list of qualified Hispanic supervisors available to serve on promotional boards or panels. Every effort will be made to assure appropriate Hispanic representative on the promotion/selection committees, especially in areas of high Hispanic underrepresentation.				X

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position EAS 15 -16

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	19. Budgetary restraints limit cross-training and on-the-job training. Females and minorities have difficulty successfully competing for the few available vacancies due to lack of on-the-job experience in higher level positions.	19. Field Division General Manage/Postmasters will assist the local offices in allocating resources for cross-training. During FY 87, a representative percentage of minorities and females at level EAS-15 and 16 positions will receive cross-training and on-the-job training.		X		
All Protected Groups	20. Employees are not always given detailed instructions on application procedures for initial level supervisor positions.	20. Managers of Mail Processing, i.e., general foreman and tour superintendent will provide detailed instructions and guidance to employees who wish to apply for initial level supervisory positions through "mini talks" during their tour of duty. In conjunction with the Postal Employee Development Centers, they will develop a handout which provides further guidance on the process. In addition to the above, each supervisor will provide individual career counseling to the aspirants interested in upward mobility.	X			
All Protected Groups	21. An area which has to be focused on is the first-time applicant preparing for further advancement. In a number of instances, the candidate has the technical and intellectual skills for the position, but lacks the ability to market or exhibit his or her attributes. Herein lies the barrier.	21-A. PEDC Managers and Affirmative Action Programs Coordinators will provide workshops on how to prepare a 991 and how to interview as part of awareness conferences and affirmative action activities.			X	
		21-B. MSC Managers will identify management officials to serve as consultants to				X

FIGURE 8

BARRIER ANALYSIS

Name of Organization U.S. Postal Service
Fiscal Year 1987

Grade Level/Position EAS 15 - 16

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	(A) Improper display of Form 991. (B) Poor performance before the reveiw committee.	applicants to assist them with leadership, managerial and productivity concepts. In addition, PEDCs and Special Emphasis Staff will develop and conduct sessions on interpersonal skills and confidence building.				
	22. The goal-monitoring reports suggest that candidates are having difficulty at the review panel level. The problem is a combination of historical exclusion as well as inadequate training in the areas of evaluating and recommending the best qualified person for the position. A thorough analysis of the report might suggest other barriers.	22-A. The MSC level EEO Executive Committees will conduct an analysis of its goal monitoring report. A determination should be made, documented, and submitted to the MSC on the effectiveness of review committees. If less than 50% of the minority and female applicants are making it through the review committees, then attention must be addressed to the committee, i.e., review their role and skills. Additionally, a follow-up by Affirmative Action Programs Coordinators and Special Emphasis Programs Personnel should be undertaken to analyze the success rate of minorities and females.			X	
		22-B. Accounting Period Goal Monitoring Reports will be reviewed at the division level with appropriate input/ feedback to the MSCs.			X	

FIGURE 8

BARRIER ANALYSIS

Name of Organization U.S. Postal Service

Grade Level/Position EAS 17 - 22

Fiscal Year 1987

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	23. In smaller associate offices, there are little or no developmental or training opportunities. This barrier's long range effect is to limit individuals who ultimately can be part of the pool for higher level positions.	23-A. Postmasters will solicit assistance from MSC Managers relative to identifying training opportunities available in larger installations.		X		
		23-B. Supervisors and Managers will encourage employees who are within grade level to apply and accept details and assignments.	X	X	X	X
		23-C. Division Field Directors will ensure regionwide EAS postings are available. Affirmative Action Programs Coordinators and Special Emphasis personnel will ensure distribution.	X	X	X	X
		23-D. Accounting Period Goal Monitoring Reports will be reviewed at the Division level with appropriate input/feedback to the MSCs.	X	X	X	X
White Female; Black Female; Hispanic Male and Female; AA/PI Male & Female	24. Lack of training and experience of employees in these levels prevent them from attaining higher levels.	24-A. Managers will use available opportunities to cross-train and provide details for employees in these levels who display potential for and interest in higher level positions. NOTE: Division Offices will report to the Regional Director, Human Resources, quarterly on actions 24 and 25.	X	X	X	X

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position EAS 23 and above

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
		24-B. Managers will review career counseling package with their employees during merit reviews to determine what training is needed to make the employee more competitive for higher level positions.	X	X	X	X
		24-C. Office of PCES will work with the Offices of Training and Development and Equal Employment Opportunity to identify and develop high potential individuals, including minorities and females.	X	X	X	X
		24-D. The EEO Executive Committees at the appropriate level will monitor the above process and provide feedback on a quarterly basis.	X	X	X	X
White Female; Black Male; AA/PI Male	25. In assessing impediments that adversely affect protected groups from promotions to level 23 and above, at times there is a fair representation in the applicant pools with less movement in the applicant flow. Further analysis reveals that individuals in the pools are frequently not being given the opportunity to gain experience and technical knowledge through training and hands-on application.	25-A. PCES Executives and their subordinate managers will have, as part of their objectives, a plan for developing potentially qualified employees. The executives continue to give career counseling to employees in levels 23 and above advising them to apply for higher level positions as appropriate. Career counseling should emphasize strategies for improving weak areas and requests for developmental details and assignments.		X		

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service

Grade Level/Position EAS 23 and above

Fiscal Year 1987

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
		25-B. Managers will provide opportunities for these groups to gain meaningful experience. Employees will be encouraged to request cross-training and details. NOTE: Division Managers will monitor and assist with action 25-B.		X		
	26. There is some impact due to filling of positions from the outside, especially when the recruitment is concentrated in areas with a minimum of protected group members.	26. Field Division General Managers/ Postmasters, Affirmative Action Program Coordinators, Special Emphasis Personnel, and Director of Human Resources and E&LR will conduct recruitment drives at major organizations, universities and institutions which have a large representation of females and minorities. Applications should be solicited and kept in a resource file until needed. The file should be updated yearly.		X		

FIGURE 8

BARRIER ANALYSIS

Name of Organization U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Postmasters EAS 15 and above

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	27. There are a number of bona fide barriers that have significant impact on the Postal Service's ability to reach its ultimate goal of promoting protected group members to the position of Postmaster. Those barriers were primarily associated with the problems of the residency requirement and relocation. Although the residency requirement no longer exists, many employees are not aware of its elimination.	27. Field Division General Managers/ Postmasters and Field Division Directors will ensure that employees are made aware that there is no longer a residency requirement.				

FIGU..E 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position Postmasters EAS 15 and above

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
All Protected Groups	28. There is a low percentage of protected group employees participating in OIC and other higher level assignments which lead to qualifying experience. This lack of training and development acts as a barrier to protected group advancement. This can be overcome by giving local areas more latitude in correcting this deficit.	28-A. Field Division General Managers/Postmasters and Field Division Directors, Human Resources will review with MSC Managers their OIC and higher level assignments that lead to qualifying experience. The goal is to increase the participation of all protected group members in higher level assignments.		X		
		28-B. Affirmative Action Programs Coordinators will conduct recruitment workshops/seminars to develop the interest of employees, particularly minorities, to apply for and participate in the OIC program.		X		
		28-C. Supervisors, Managers, and Postmasters will encourage employees who are within grade level to apply and accept details and assignments, including OIC assignments, in order to enhance their opportunities for promotion to middle and higher level positions.		X		
All Protected Groups	29. Set forth below are rules, laws and regulations established by statute that on the surface protect the rights of certain groups, but					

FIGURE 8

BARRIER ANALYSIS

Name of Organization. U.S. Postal Service
Fiscal Year 1987

Grade Level/Position All levels

GROUP	BARRIER(S)	SPECIAL ACTIONS TO OVERCOME BARRIERS	Quarterly Milestones 1st	2nd	3rd	4th
	prevent the full implementation of an affirmative action program. (A) The six-level restriction for promotions to level 17 and above is a barrier to promoting many employees who have demonstrated leadership ability and have the necessary background and required technical skills. (B) The National Agreement limits the length of time an employee can remain on a 204B detail before losing a bid assignment. This, in many instances curtails valuable training opportunities for craft employees. (C) FLSA restricts PEDC training for craft employees seeking upward mobility. (D) The difference in the pay scale for initial level supervisor and craft employees, and the additional responsibilities of an initial level supervisor, depresses the desire for promotion to initial level supervision for some employees.	29. The National Office of EEO will be responsible for establishing a Headquarters and regional taskforce to analyze possible solutions to the barriers noted in number 29. A report recommending strategies for eliminating impediments will be issued to the appropriate management level for action.			X	

FIGURE 9

ACTION PLAN FOR PREVENTION OF
SEXUAL HARASSMENT IN THE WORKPLACE

There are three distinct features of this segment of the Plan. They are as follows:

1. Method of informing employees of their right to file sexual harassment charges under Title VII.

2. Training proposals for managers and supervisors on their responsibilities for prevention of sexual harassment in the workplace.

3. A policy statement of the Postmaster General outlining his personal commitment to the prevention of sexual harassment and methods of discipline for those who violate it.

Figure 9

Action Plan for Prevention of Sexual Harassment in the Workplace for FY-87

Name of Organization U.S. Postal Service

	Quarterly Milestones			
	1st	2nd	3rd	4th
I. Specific steps taken by USPS to inform employees of their right to file sexual harassment charges under Title VII.				
a. Policy statement issued (copy attached)	X			
b. Memorandum to all employees issued		X		
c. Other specific methods				
1. New employee orientation	X	X	X	X
2. Affirmative Action talks	X	X	X	X
3. EEO poster displayed continuously	X	X	X	X
4. Workshop on sexual harassment during Affirmative Action activities, and career awareness conferences	X	X	X	X
II. Types of training programs conducted to inform supervisors and managers of their responsibility for preventing sexual harassment in the workplace. The following are a few examples:				
a. USPS assembly programs	X	X	X	X
b. Women's Program meetings	X	X	X	X
c. Small, structured training programs	X	X	X	X
d. USPS training programs	X	X	X	X
III. USPS codes of conduct or other material designed to curtail and/or prevent sexual harassment in the workplace issued.				X

SEXUAL HARASSMENT POLICY STATEMENT

POSTMASTER GENERAL PRESTON R. TISCH

The U.S. Postal Service is committed to provide a work environment free of sexual harassment.

Sexual harassment is unacceptable conduct which undermines the integrity of the employment relationship and violates the Code of Ethical Conduct. While the Postal Service does not intend to regulate employees' social interactions or relationships entered into freely, conduct constituting sexual harassment will not be tolerated.

Sexual harassment takes various forms. It can be deliberate or repeated unsolicited verbal comments or physical contacts of an intimate sexual nature which are unwelcome to the recipient. It can also be an employment decision, or threat of a decision, affecting an employee's job for the refusal or acceptance of a request for sexual intimacy. Additionally, sexual harassment may also occur when the employer has created a hostile or abusive working environment. The sexual harassment must be sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment.

Employees in the Postal Service alleging sexual harassment may seek remedies through Equal Employment Opportunity procedures, grievance-arbitration procedures for bargaining unit employees under the collective bargaining agreements, the appropriate grievance procedures for nonbargaining unit employees, and by the reporting of conduct involving criminal activity to the Postal Inspection Service.

Employees who do not choose to exercise formal avenues to achieve resolution of their grievances may appeal informally to appropriate and impartial supervisors and managers within the organization. Employees who engage in sexual harassment in the workplace can expect serious disciplinary action.

Preston R. Tisch

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. I am going to ask unanimous consent that Senator DeConcini and other members of the subcommittee can provide questions for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

I am seriously concerned that the United States Postal Service continue to maintain small rural post offices and six-day postal delivery service. In the past, the Postmaster General has indicated to the Senate Appropriations Committee his willingness to participate in economics--but pledged not to undertake the wholesale closing of small rural post offices or to eliminate six-day mail delivery service in the process.

Because these Postal Service matters are so important to rural states, I have again this year urged that the Subcommittee include an amendment to the bill which would continue six-day mail delivery service and the operation of small post offices.

1) **Mr. Tisch what are your views on maintaining the extensive delivery network that makes the Postal Service unique, and do they differ from those of your predecessor?**

Our universal six-day delivery system is, perhaps, the strongest element of our national Postal Service. This delivery system enables the Postal Service to handle our increasing mail volume and to meet the statutory requirement that we provide prompt, reliable and efficient postal service to all areas of our Nation. For these reasons, I do not support the elimination of one day of delivery service, the selling off of postal delivery routes, the wholesale closing of large numbers of small post offices, or any other similar proposals that seem to surface each year when the annual budget for the Federal Government is under consideration.

2) **What are your views on the Grace Commission regarding the closing of thousands of small post offices?**

I do not agree with the Grace Commission Report's recommendation in this area and I do not intend to initiate a wholesale closing of small post offices.

3) **Mr. Tisch, I understand that the Postal Service employs certain administrative safeguards and procedures in those instances when a proposal is made to close a post office. Would you elaborate for the record on the safeguards the Postal Service uses in those selected cases?**

First and most importantly, our policy precludes widespread, indiscriminate post office closings. It is based on statute, and the administrative procedures resulting from that statute are uniformly followed whenever there is a proposal to close a post office.

The regulations require 60 days for public comment following the development and release of a written proposal to close or consolidate an office by a Field Division General Manager. If a discontinuance is approved following a careful review of the proposal at the Headquarters level, the statute provides for a 30-day posting of a final determination during which local postal customers may appeal the final decision to the Postal Rate Commission. The Postal Rate Commission

then has 120 days to review the Postal Service decision and render a final opinion.

QUESTIONS SUBMITTED BY SENATOR ALFONSE D'AMATO

1. - **Mr. Tisch, I have cosponsored legislation, S. 541, which would give postal supervisors and Postmasters access to an impartial review of adverse personnel actions. I believe you are familiar with this legislation.**

As you know, since 1971, when the Postal Service was made an independent agency, we have had a situation where only postal employees who are veterans or who are covered by collective bargaining agreements may appeal adverse personnel actions to an agency outside the Postal Service.

Unfortunately, the practical effect of this has been especially damaging to female postal supervisors and Postmasters, who are less likely to be covered by the provision for veterans.

Mr. Tisch, do you support S. 541? If not, do you have specific recommendations for changes?

The Postal Service currently has what we believe is a very good internal appeals process, which affords our nonbargaining employees, including supervisors, managers and postmasters, very similar protections to those which would be provided by S. 541. If adjustments to the existing process are needed, they can be made through the consultative process with the postal management and supervisory associations. It is understood that some of our employees perceive a need for the proposed legislation. The Postal Service disagrees with that perception, but if the legislation is to become law, then out of a sense of fairness, its protections should cover all nonbargaining postal employees. It should also be emphasized that we need the ability to go to court as we are far more familiar with our own regulations and labor agreements than are Office of Personnel Management staff. The Postal Service recognizes that this is a popular issue and we want to assure you that, if enacted, the Postal Service will implement this legislation in a positive spirit.

2. **I note that in your testimony, you are requesting a revenue foregone appropriation of $32 million. I also note that the authorized level for revenue forgone is $702 million.**

Needless to say, this is an area of tremendous concern to non-profit organizations and newspapers who depend on this subsidy. In addition to the two figures you have cited, I am interested in knowing a third figure.

What level of appropriation would be necessary to avoid an increase in rates for non-profit organiations, libraries, in-county newspapers, and other beneficiaries of the subsidy?

The $32 million proposal for revenue forgone is not the Postal Service's request. It is the Administration's proposal and would fund only free matter for the blind. Under current law, the appropriation needed to maintain free and reduced-rate mail at the authorized level in Fiscal Year 1988 is $702,420,000. The level of funding necessary to maintain preferred rates at their current levels is $556 million.

3. **Mr. Tisch, I believe you are aware of the controversy which has surrounded the Postal Service's planned purchase of the AT&T building in College Point, New York. I know that the Postal Service had considered other locations for this facility. In fact, you had gone so far as to actually purchase a building known as the Phelps Dodge facility.**

Why did the Postal Service decide not to use the Phelps Dodge Facility? What is the status of the purchase of the AT&T building?

We are aware that our planned acquisition of the AT&T property in College Point has met with some opposition. However, our plans were coordinated with appropriate local officials, and our proposed use of this property is consistent with its historical use and current zoning. This facility was always preferable from an operations standpoint to the Phelps-Dodge site. However, at the time we purchased the Phelps-Dodge property, the AT&T building was not available to us at a price we could justify. Currently, we have entered into an agreement to purchase the AT&T building, and we expect this transaction to close prior to June 1.

4. **I have also heard concerns regarding the Postal Service's negotiations for purchase of the Technicon property located on Benedict Avenue in Greenburgh, New York. Residents of the town are concerned that a Postal distribution center will have a negative impact on their town. Are you aware of the local concerns on this issue? Are alternate sites being considered?**

(Due to personal real property holdings in the area, the Postmaster General has recused himself from all matters relating to this project. The following response on behalf of the Postal Service was prepared under the direction of the Deputy Postmaster General:)

Yes, we are well aware of local concerns, both public and private, on this issue and have been so for some time. This project was initiated in 1982. Since that time, many different sites have been considered and rejected. Local opposition was a factor in a number of those rejections.

Yes, we are considering alternate sites. While we hope that one or more of the sites currently under consideration will prove acceptable to both the Postal Service and the public, experience indicates that we are likely to encounter opposition to any location selected.

SUBCOMMITTEE RECESS

Senator MIKULSKI. I have no further questions.

The subcommittee will stand in recess until Friday, April 10, when the subcommittee will conclude its regular fiscal year 1988 appropriations hearing with the testimony from a number of public officials. The hearing will be held in SD–192 of the Dirksen Building.

[Whereupon, at 10:40 a.m., Friday, April 3, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, April 10.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1988

FRIDAY, APRIL 10, 1987

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 8:30 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini and Mikulski.

NONDEPARTMENTAL WITNESSES

OPENING REMARKS OF SENATOR DE CONCINI

Senator DECONCINI. The Subcommittee on the Treasury, Postal Service, and General Government will come to order and it will conclude its regular fiscal year 1988 appropriations hearings by receiving testimony today from approximately 19 public witnesses representing a wide variety of issues.

These public witnesses will discuss issues ranging from the Federal building in Oakland, CA, to the U.S. Customs Service staffing, to funding for the National Archives and Records Administration grant programs.

We have tried to accommodate each and every request from outside witnesses who wish to testify today. We did not actually cut off the list of witnesses until Tuesday morning of this week. At that point we had to draw the line in order to properly handle the scheduling of witnesses, travel accommodations from other parts of the country, and to prepare the statements for the hearings.

We have also told all latecomers that we will be happy to have their written statements included in the hearing record regardless of whether or not they are here to testify.

As I indicated, ladies and gentleman, to each of you in writing, we will have to limit the amount of time for each witness to no more than 10 minutes if we are going to fit all of this in, and I must say that I apologize for the time crunch. I am going to ask that you shorten it up because the Senate did recess last night and this Senator, along with others, had tentative schedules that became firm instantly, and I have to leave myself before 10 o'clock.

Senator Mikulski of Maryland has agreed to come and chair sometime after 11, so we may have a little recess until we get another chairman. It is unfortunate that we cannot spend more time on this particular hearing that we are going to have today. Our witness list is long with important people who want to be heard.

Sometimes we do not even have time for public hearings, but I feel very strongly that it is important to do so, that we continue to listen, and have a full record before we move toward markup.

Before we go to the first witness, I want to give special thanks to Marilyn Washington and Bobby Mills of the staff who have done a lot of work over the last couple of months putting all of the hearings together. I am sure they are grateful that it is finally coming to fruition, at least a termination as far as the hearings are concerned, and I deeply appreciate their dedication and time, and particularly their schedule changes today.

STATEMENT OF DR. PAGE PUTNAM MILLER, DIRECTOR, NATIONAL COMMITTEE FOR THE PROMOTION OF HISTORY

Senator DECONCINI. Our first witness this morning is Dr. Page Putnam Miller, Director of the National Coordinating Committee for the Promotion of History.

Dr. Miller, your full statement will be put in the record.

[The statement follows:]

STATEMENT OF PAGE PUTNAM MILLER

I am Page Putnam Miller, Director of the National Coordinating Committee for the Promotion of History, a consortium of over 44 historical and archival organizations.

Mr. Chairman, on behalf of the historical and archival communities in this country, I wish to express appreciation to you for being able to appear before this distinguished committee to express our concerns regarding the administration's fiscal year 1987 budget recommendations on the National Historical Publications and Records Commission's grants program and the National Archives and Records Administration.

For the seventh consecutive year, Mr. Chairman, the administration's proposed budget has recommended zero funding for the NHPRC's grants program. In 1983 the Congress passed reauthorization legislation for NHPRC and reaffirmed the important role of this program in maintaining and enhancing our repositories of historical documents. We urge you to appropriate $5 million for fiscal year 1988, which is the amount authorized.

The National Historical Publications and Records Commission has provided vital leadership and modest financial aid to high priority historical records preservation and documentary editing projects throughout the Nation. The documentary historical editing projects have resulted in 225 publications projects to preserve the papers of such central figures in American history as Thomas Jefferson, Henry Clay, and Susan B. Anthony. Since the beginning of the historical publications program, 175 projects have been completed and 504 volumes published. On the records side of the Commission's work grants have been awarded to State and local governmental institutions and to private libraries and historical societies to preserve documents that are of significance, that are disintegrating, that are inaccessible, and that are not organized and described in a way that allow them to be used by researchers.

Let me stress that NHPRC grants are a superb example of State and Federal cooperation. Over one-half of the cost of NHPRC projects is contributed from the private sector. Federal seed money provides genuine leverage for eliciting funds from private sources to support projects that preserve our documentary heritage.

As one example of the national leadership provided by the National Historical Publications and Records Commission's grants program I wish to highlight a recent project funded by NHPRC and sponsored by the National Association of Government Archives and Records Administrators on the preservation crisis confronting State archives throughout the United States. The recently published study, "Preservation Needs In State Archives" found that a large percentage of the approximately 2.5 billion pages in State archives are physically deteriorating at an alarming rate. Rapid deterioration of documents printed on acidic paper, the transitory nature of computer created records, and wear on records subject to frequent use has meant that we are losing our past. Most States, the study concluded, do not have adequate plans or resources to protect their holdings. Yet if the problem is not addressed, the report warns that the documentary resources that Americans depend on to establish their rights, understand their past, cope with their present, and plan for their future will vanish forever. The attached brochure, "We are Losing Our Past," summarizes the report and calls for several immediate steps. Because of this grant from the National Historical Publications and Records Commission, States are gaining the information and the encouragement needed to mobilize individual State and local efforts to deal with an urgent preservation problem.

I am here today primarily to urge funding for the NHPRC grants program. Yet, I must stress that it is imperative that NHPRC grants funding not be taken from the budget of the National Archives. The administration has recommended approximately $110 million for fiscal year 1988 for the National Archives. This does represent an increase over current level funding but almost all of the increase would be absorbed by inflationary costs—pay raises, changes in retirement program expenditures, and additional costs of maintaining storage facilities. Even with this projected increase the National Archives will have to continue to operate on a policy of deferred maintenance and service. In briefly summarizing, let me mention four areas of pressing needs at the National Archives not met by the proposed budget: (1) the National Archives in 1985 developed a long-term program to preserve the crumbling documents of historic value in its custody, yet funding for preservation has fallen far below the needed amounts; (2) the National Archives has responsibility for reviewing for declassification 30-year-old documents in its custody, but in 1987 there were almost 50 percent fewer staff involved in declassification work than there were in 1980 and only a small fraction of the backlog of documents is being processed; (3) because of a sharp reduction of staff in 1981 and 1982, the National Archives has been operating with a shortage of professional archivists who are steeped in the collections and who can provide expert assistance for locating specific documents; (4) the National Archives has for over 10 years been handicapped by shortage of space and now many agencies are not able to transfer their documents to the National Archives because there is inadequate space.

My point in listing these pressing needs of the National Archives is to provide some background information on the budgetary constraints under which the National Archives operates. And to urge that additional funds be allocated for the funding of the National Historical Publications and Records Commission's grants program. A policy of robbing Peter to pay Paul would only be counterproductive.

Thank you for your consideration of these programs that provide this country with a priceless resource: a documentation of its history.

Dr. MILLER. Thank you very much. I appreciate the opportunity to be here today.

I am speaking on behalf of historians and archivists. I represent 44 historical and archival organizations and we have been concerned for a long time about the National Archives and the National Historical Publications and Records Commission [NHPRC].

These are two very important institutions for the historical and archival fields. The Archives, of course, is central to any historian doing research on American history and the NHPRC Grants Program has provided valuable leadership for the whole profession of archival and records management.

The NHPRC Grants Program has generally gone to two sides of the program; one to the publications side of documentary editing projects, and the other to records programs. Over the last few years the administration has zeroed out funding for this program and each year we have come up to tell you the important work accomplished by the NHPRC Grants Program.

I am sure you are familiar with the documentary editing publications. These are the papers of not only the Founding Fathers, but people like Susan B. Anthony and Booker T. Washington. Over the years there have been 225 publications projects and many of these have been completed.

On the records side of this program, such important projects have been undertaken as a recent one on evaluating the state of records in the State archives and providing leadership across the country for documenting our heritage.

I know you are rushed today, and so I would like to reduce it just to two points which is, the first, of how important the grants program is for both the documentary editing and the records programs.

Second, the National Archives budget is very tight, also, and I know that at the end of the budget negotiations frequently when we come and ask for an additional $4 or $5 million for the NHPRC Program, the tendency has been to take this from the National Archives budget.

I am not here today to request more money for the National Archives, but just to say the ways in which the National Archives budget is already so very tight. Just let me summarize a couple of areas where the National Archives budget is tight. The National Archives has developed a long-term preservation program and the current proposed budget is only appropriating half of what has been stated as being needed for preservation.

You know, all of the documents that are on acidic paper are beginning to crumble now. We have heard a lot about brittle books, but there is a problem with brittle records. It is sort of like a time bomb waiting to go off, and so all of our documents that are on this acidic paper need preservation work.

The National Archives did a long-term study as to what is involved—over 20 years—and they have set sort of a schedule and the amount that should be appropriated for next year, only about one-half of that is scheduled.

In another area, the National Archives has responsibility for declassifying 30-year old documents, and they have such a small staff, they have half of the people that they had in 1980 doing declassifying work. These are olddocuments, documents that are 30 years old, and if historians are going to write about post-World War II history they have got to have access to documents.

So we are concerned about that small staff. We are concerned about the space shortage for the National Archives Building and we are concerned about the small number of really qualified archivists and the cut in staff for people who service records.

So my point is not to ask for more money for the National Archives budget but just to say the National Archives budget is already strapped and even though they have a little bit more proposed for this year than they did last year, they are still unable to meet the needs in these four very crucial areas.

So we hope that when you consider funding for the National Historical Publications and Records Commission's Grants Program that this will be an additional sum.

Senator DECONCINI. Ms. Miller, thank you very much. Let me say that I do not want this to be misinterpreted because I appreciate your coming forward and testifying today. I understand both the budget crunch and the shortage, and also the extreme importance of the Archives because we do try here. It certainly is not a target of anyone on the subcommittee.

With your coordinating committee looking at the tremendous depth and prestige of the organizations that are associated here, let me ask you if there's been any effort to raise private sector money from foundations or universities or to have people loaned to the Archives?

I am not trying to shift the burden, but you know the President talks about privatization whenever there is a shortage of money. It just seems to me that with the universities in this country interested in history and the history departments with the organizations, such as those listed on your letterhead, an effort can be made to raise some money or recruit volunteers who could assist.

Dr. MILLER. Well, the National Historical Publications and Records Commission Grants Program is a model program of private and Federal sharing. Almost all of those programs are financed 50 percent by universities and by private funds. So we feel that it is already a model program and that the Federal funding then provides really important leverage for then getting the other 50 percent from the private source.

Those are for the sort of special kinds of documentary editing and records programs. Our feeling, however, on the operating budget of the National Archives is that the Federal Government has a responsibility to care for its own records and the Federal Records Act calls for the care of the Federal records and we feel that that really is not optional.

Senator DECONCINI. I know. I do not dispute that and as a matter of fact, I agree with it. There is a responsibility here as you very astutely point out. There is no increase in money and there is a lessening of money and staff. My hope is that someone will save us while we are in this budget position with such deficits.

I only offer that as a suggestion, not for the record to indicate that we are not going to do our very best to meet the suggestions that you have made.

Thank you very much

Dr. MILLER. I appreciate your attention to this.

STATEMENT OF LILLIAN ROSS, OVERALL TAX-AIDE COORDINATOR FOR THE DISTRICT OF COLUMBIA, AMERICAN ASSOCIATION OF RETIRED PERSONS

Senator DECONCINI. Our next witness will be Lillian Ross, tax-aide coordinator of the American Association of Retired Persons. Ms. Ross will be testifying on funding for tax counseling for the elderly program and revenue forgone postal subsidy.

Ms. Ross, welcome. Your full statement will be put in the record if you could summarize it for us, please.

[The statement follows:]

STATEMENT OF LILLIAN ROSS

The American Association of Retired Persons, representing the interests of more than 24 million working and retired Americans 50 years of age or older, welcomes the opportunity to testify before the Treasury, Postal Service and General Government Appropriations Subcommittee. I am Lillian Ross, an AARP volunteer and the Overall Tax-Aide Coordinator for the District of Columbia. For the past two years, I have volunteered in AARP's Tax-Aide program. During this past tax season, it has been my pleasure to recruit and supervise approximately 80 volunteer tax counselors and coordinators, who provide tax assistance to elderly and disabled Washingtonians. Our testimony today will focus on two major issues: (1) funding for the Tax Counseling for the Elderly program and (2) funding for the revenue forgone postal subsidy.

A. Tax Counseling for the Elderly

At the outset, we want to commend this Subcommittee for its past strong support of the Tax Counseling for the Elderly (TCE) program. Last year, this Subcommittee approved a $200,000 funding increase for TCE, raising the funding level from $2.2 million to $2.4 million. This funding increase enabled TCE to more effectively respond to a rapidly growing workload.

AARP's Tax-Aide program, by far the largest of the TCE programs, and the only one offering service nationwide, has had ever increasing requests for assistance in recent years. Tax-Aide, now in its nineteenth year, has become virtually institutionalized in communities throughout our nation. It not only serves the ambulatory aged but also those who are hard to reach--shut-ins, nursing home residents, and others. More than 25,000 Tax-Aide counselors will assit with an estimated 1.2 million tax returns during the 1987 tax season.

Last year, our Tax-Aide program received this nation's highest honor for voluntary private sector initiatives. AARP's Tax-Aide program was one of only thirty organizations selected to receive a

Presidential citation for outstanding service. This honor would not have been possible without the support of this Subcommittee.

AARP recommends at least a $2.4 million appropriation for TCE for fiscal year 1988. This is the same amount as the fiscal year 1987 funding level and matches the Administration's 1988 budget request.

Over the years, the IRS has repeatedly stressed that no taxpayer should pay more taxes than legally required. However, many older persons needlessly overpay their taxes each year. Some are confused by the tax form. Others are overwhelmed by the Internal Revenue Code, which is certainly one of the more complicated laws ever enacted, and changes brought about by the Tax Reform Act of 1986 add further complexity. Many are simply unaware of available deductions, credits and exemptions to benefit the elderly. Tax-Aide and other TCE programs help to insure that taxpayers claim all lawful allowances. Additionally, the program assists taxpayers who need to file amended returns to claim deductions that they overlooked or to pay additional tax on income that was not reported.

The demands for the 1988 tax season are likely to be even greater. Many changes in the 1986 Tax Reform Act become fully effective this year, and will be reflected in the returns that taxpayers file in 1988. In fact, the entire tax landscape for older Americans has been altered greatly by the 1986 Tax Reform Act. For example, the floor above which medical and dental expenses can be deducted has been raised from 5 to 7.5 percent of adjusted gross income. Persons 65 years or older will no longer be entitled to an additional exemption because of age. A special standard deduction will be available for older Americans who do not itemize their deductions. The requirements for avoiding penalties for underpayment of estimated income tax have also been changed.

Tax-Aide has also increased taxpayer accuracy and compliance. This has been especially helpful for IRS because a substantial amount

of income is unreported each year. Some authorities estimate that federal revenue could increase by more than $100 billion if taxpayers reported all their income fully. This, of course, would greatly reduce our unacceptably high national defecit.

Tax-Aide volunteers will increasingly be called upon to assist taxpayers in 1988. IRS, which now frequently refers older taxpayers to Tax-Aide and other TCE sites, will have greater need to do so next year. Furthermore, IRS is increasingly turning to Tax-Aide volunteers to provide instruction for the counselors in the TCE program. Previously, this responsibility was largely assumed by the IRS. Volunteers are now supplementing the instruction, or in many instances, providing all of the instruction under IRS supervision. In addition, Tax-Aide counselors have responded to concerns about the new W-4 form as well as new requirements to avoid underpayment penalties for estimated income tax, and general changes in the tax law. The need to respond to these and other tax law changes will be even greater during the 1988 tax season.

In summary, we urge the Subcommittee to provide at least a $2.4 million appropriation for TCE. If sufficient flexibility exists, a $250,000 increase would be justified because of the greatly expanded workload for the 1988 tax season. An additional $250,000 would enable program volunteers to assist more elderly taxpayers with questions concerning tax law changes. In addition, increased funding would also enable volunteers to better serve hard-to-reach older tax payers such as minorities, rural elderly persons, hospitalized persons, and those residing in nursing homes and senior housing facilities.

Finally, the Tax Counseling for the Elderly program has encouraged a spirit of volunteerism among the older persons who serve as tax counselors. This has resulted in the extension of tax payer assistance throughout our nation at very minimal cost. For these reasons, therefore, AARP urges this Subcommittee to recommend funding for TCE in the amount of $2.4 million for FY 1988 and that this

funding level should be increased to $2.65 million if budgetary considerations permit.

B. Revenue Foregone Appropriation

Mr. Chairman, the Association also urges the Subcommittee to freeze the funding for the revenue foregone postal subsidy for nonprofit mailers in the amount of $650 million.

Congress provided this subsidy in recognition that private, nonprofit organizations complement government activities at all levels--federal, state, and local. Indeed, the nonprofit sector often acts as a substitute when governmental units are unable to perform certain functions because of budgetary constraints.

Both the workload and cost for governmental agencies would greatly increase if private, nonprofit organizations did not deliver a significant proportion of supportive services. In many cases, these services enable recipients to live independently without any governmental assistance. Thus, governmental units recognize savings, either directly or indirectly, from the activities of the nonprofit sector.

Many of these services would be sharply curtailed or eliminated if Congress does not provide adequate funding for the revenue forgone subsidy for nonprofit mailers. Reduced postal rates for private, nonprofit organizations enables such groups to better utilize their limited resources for the purpose of providing supportive, educational, health, and other human services. A substantial increase in postal rates would make it more difficult for the private, nonprofit sector to provide such essential services.

AARP strongly believes that it is sound and sensible to encourage private, nonprofit organizations to complement government activities and to fill in voids where service gaps exist. This rationale is even more compelling now because of recent federal spending cuts for social programs. These federal spending reductions will become more pronounced as the Gramm-Rudman-Hollings balanced budget amendment becomes fully effective.

The net impact is that the private sector will be asked to do more to provide replacement services for those governmental activities which have been reduced or eliminated. It is essential for private, nonprofit organizations to have access to a mail system at a reasonable and affordable cost in order to perform this task. A funding level of $650 million for the revenue foregone postal subsidy is realistic in today's budgetary climate.

C. Conclusion

In conclusion, the Association appreciates the opportunity to present its views concerning these issues and urges the Subcommittee to recommend a minimum of $2.4 million for the the Tax Counseling for the Elderly program and $650 million for the revenue forgone subsidy for nonprofit mailers.

We thank you for your past support and look forward to working with the Subcommittee as you proceed towards markup of your FY 1988 bill.

Ms. Ross. Good morning Mr. Chairman and members of the subcommittee.

The American Association of Retired Persons, representing the interests of more than 24 million working and retired Americans 50 years of age or older welcomes the opportunity to testify before the Treasury, Postal Service, and General Government Appropriations Subcommittee.

I am Lillian Ross, an AARP volunteer and the overall tax-aide coordinator for the District of Columbia. Mr. David Offutt will assist me, from the American Association of Retired Persons.

For the past 2 years I have volunteered in the AARP's Tax-Aide Program. During this past season it has been my pleasure to recruit and supervise approximately 80 volunteer tax counselors and coordinators who provide tax assistance to elderly and disabled Washingtonians.

Our testimony today will focus on funding the Tax Counseling for the Elderly Program. Our full statement, which will be submitted for the record, will also address the revenue forgone postal subsidy issue.

At the outset I want to commend this subcommittee for its past strong support of the Tax Counseling for the Elderly Program. Last year you approved a $200,000 funding increase for the tax program, raising the funding level from $2.2 million to $2.4 million. This funding enabled us to more effectively respond to a rapidly growing workload.

More than 25,000 tax-aide counselors will prepare an estimated 1.2 million tax returns during the 1987 tax season. Last year our Tax-Aide Program received this Nation's highest honor for a private sector volunteer initiative. AARP's Tax-Aide Program was one of only 30 organizations selected to receive a Presidential citation for outstanding service. This honor would not have been possible without the support of this subcommittee.

AARP recommends at least a $2.4 million appropriation for the Tax Counseling for the Elderly Program for the fiscal year 1988. This is the same amount as the fiscal year 1987 funding level and matches the administration's 1988 budget request.

Senator DeConcini. Ms. Ross, let me interrupt you. May I suggest that you further summarize your statement. I have looked at your statement and we are not going to have time for you to read it all. I think it would be more important to touch on some of the highlights that you have mentioned, such as revenue forgone and what have you, but I am going to have to ask you to please summarize.

Ms. Ross. All right, thank you.

In summary we urge the subcommittee to provide at least a $2.4 million appropriation for the Tax Counseling for the Elderly Program. If sufficient flexibility exists a $250,000 increase would be justified because of the greatly expanded workload for the 1988 tax season. An additional $250,000 would enable program volunteers to assist more elderly taxpayers with questions concerning the tax law.

In addition, increased funding would also enable volunteers to better serve hard to reach older taxpayers such as minorities, rural elderly persons, and those residing innursing homes and senior housing.

Finally, the Tax Counseling for the Elderly Program has resulted in the extension of taxpayer assistance throughout our Nation at a very minimum cost. For these reasons, therefore, the American Association of Retired Persons urges this subcommittee to recommend funding of $2.4 million for the Tax Counseling for the Elderly Program during the fiscal year 1988, and that this funding level should be increased to $2.65 million if budgetary considerations permit.

We thank you for your past support and look forward to working with the subcommittee as you proceed toward markup of your fiscal year 1988 bill.

I thank you.

Senator DECONCINI. Ms. Ross, let me thank you very much for your testimony and the fact that we are short on time, let me assure you, does not deter at all this Senator's firm commitment. Quite frankly, I want to thank the AARP for the tremendous volunteer work that you and the organization has done.

I know how many people in Arizona have availed themselves of your voluntary services and some are volunteers. I can assure you that, as in past years, this Senator is going to do everything he can to attempt to get the appropriations necessary to carry on this vital informational program. With the new tax law, I am just worried to death of what elderly citizens are going to confront.

Change is difficult for all of us, and when you have a major change like this and it affects how much money is going to come out of your pocket, even though it is for a marvelous cause—to support our Government—it still is traumatic. I just want you to know that we appreciate the fine work that you and your organization have done, and thank you again for being here today with us.

Thank you.

Ms. ROSS. Thank you.

STATEMENT OF JOSEPH E. MILLER, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION

Senator DECONCINI. We are now going to hear testimony from Joseph E. Miller, assistant director, National Legislative Commission of the American Legion.

Mr. Miller, as you can tell, we are crunched for time and we are going to ask that you summarize your statement. Please proceed.

Mr. MILLER. Thank you, Mr. Chairman. I am Joseph E. Miller, assistant director of the National Legislative Commission.

Mr. Chairman, the American Legion is pleased to be able to again present its views and recommendations on funding for the U.S. Customs Service and the revenue forgone postal subsidy. Much of the success of the postal subsidy and the customs service in interdicting drugs over the last several years has been due in no small part to this committee's efforts and we appreciate that and thank you for your efforts.

I would like to go ahead and limit my statement to two main points; one dealing with the Customs Service and one dealing with the revenue

forgone postal subsidy. As it pertains to the Customs Service, currently the United States spends $3.5 billion on all of its drug interdiction activities for all different agencies.

Illegal drug activity represents $80 to $100 billion a year in illegal activity. The vast difference between what we spend to interdict drugs and the size of the business itself necessitates that all of the money that is used for drug interdiction activities be concentrated very heavily.

It has come to our attention that there is currently a dispute between the U.S. Coast Guard and the U.S. Customs Service over who should have the lead role. Well, the Legion considers both of those agencies critical. It feels that that dispute ought to be settled as quickly as possible and they can concentrate their interests.

The second point that I would like to make is regarding the postal subsidy. Currently, the most recent U.S. Postal Service figures have indicated that there has been a less than 1-percent growth in the volume of nonprofit mail from the first quarter of fiscal year 1986 to the first quarter of fiscal year 1987.

There has actually been a major decrease in the number of pieces of third class bulk rate. What that suggests to us is that nonprofit organizations, because of the rate increase which took place last year, have reached a plateau and that at the very time that the services of nonprofit organizations are needed, many of those organizations can no longer afford the very necessary ability to communicate through the mails.

We suggest that the rates for nonprofit mail have probably reached a plateau and any further reductions—we are not asking for a rollback or anything—but any further reductions may, in fact, contribute to a further decrease in nonprofit activity.

PREPARED STATEMENT

I will be happy to respond to any questions that you might have.

[The statement follows:]

STATEMENT OF JOSEPH E. MILLER

Mr. Chairman and distinguished members of the Subcommittee on Treasury, Postal Service and General Government, The American Legion is pleased to be able to again present its views and recommendations on funding for the U.S. Customs Service and the Revenue Foregone postal subsidy. This is the fifth time in as many years that we have appeared before this Subcommittee on the subject of postal appropriations and the second time that the Legion has supported increased appropriations for the U.S. Customs Service in order to step up its drug interdiction activities. This subcommittee's work in both of these areas has been admirable.

While nonprofit mailers have experienced rate increases, due to deficit reduction measures, they are far less than would have occurred if the administration's Revenue Foregone defunding proposals had received favorable Congressional consideration. That the administration's attempts to delete funding for Revenue Foregone have been unsuccessful is due in large part to the work of this Subcommittee and we thank you. Likewise the U.S. Customs Service has been able to continue its efforts to stem the flow of illegal drugs across our national borders and has thus far been spared the cuts and rescissions envisioned by the Office of Management and Budget (OMB). In fact, the budgetary reductions in Customs Service funding for Fiscal Years 1987 and 1988 would result in a loss of 2000 positions. Because there are only 15,000 persons employed by the Customs Service, a loss of 2000 positions represents a 14 percent staff cut. Because the Customs Service is a revenue generating agency, it does not seem prudent or wise to us to decrease its ability to collect revenues. But, Mr. Chairman, we feel that there are even more compelling reasons to reject the administration's funding proposals for the Customs Service.

As you are all aware, illegal drugs threaten lives, property and most tragically our nation's youth. Crime statistics from the Federal Bureau of Investigation (FBI) reveal that the number of drug and alcohol-related murders increased from 1983 to 1985 from 2 percent to 2.9 percent of the U.S. total. Drug-related arrests increased over the same period by more than 150,000. Indeed, in 1985 more than 811,000 drug-related arrests were effected, a substantial increase over the 661,000 arrests made in 1983. In fact it has been estimated that 60 to 70 percent of all U.S. criminal activity is related in some way to drug activity.

For their part, the number of drug seizures made by the Customs Service has

increased dramatically over the last several years. The number of pounds of cocaine seized between Fiscal Year 1983 and Fiscal Year 1985 jumped from 19,602 pounds to 52,528 pounds and the street value of the cocaine seized in FY 1986 is estimated to exceed $14 billion. When this figure is contrasted with the $80 billion to $100 billion a year illegal drug trade it becomes abundantly evident that the interdiction efforts of the U.S. are reaching less than 20 percent of the contraband substances entering the country. Indeed, the U.S. spends less than $3.5 billion on all of its illegal drug control activities. Because of this, and because the U.S. cannot expect to spend the levels available to illegal drug traffickers, it is important that the resources now available be used effectively.

In this regard it has come to our attention that the U.S. Coast Guard and the U.S. Customs Service disagree over who should have the lead role, and thus greater authority, in federal activities to control illegal drugs. As for the Legion we do not have a preference as to which agency should have the lead role. As you know, The American Legion considers both agencies to be indispensable combatants in the war on drugs. What we do prefer, however, is that these agencies quickly settle any disputes they may have in order to focus their attention, energies and resources on stopping the importation of illegal drugs.

Mr. Chairman, your role in providing the leadership to promote and fund the anti-drug activities of the U.S. Customs Service has been commendable. The American Legion urges you and your colleagues to continue your efforts to insure that adequate funding for the U.S. Customs Service is continued.

We would now like to turn our comments to funding for the Revenue Foregone postal subsidy. Mr. Chairman, it is hard to imagine a group of individuals who have been more supportive of nonprofit activities through funding for the postal subsidy than the members of this Subcommittee. We are all aware that the administration has sought to delete all funding for the Revenue Foregone postal subsidy except for a relatively small sum to preserve free mailings for the blind and the handicapped. While the Legion supports free mail for the blind and the handicapped and considers it an important element of the subsidy, it also recognizes that many nonprofit organizations provide services that are equally important. A bed and a nourishing meal for a homeless person, a shelter for battered children, blood donations, and a myriad of other community-based programs to assist communities and Americans in need are all important to their

recipients. In fact, these magazines may be life-sustaining support services. In part all nonprofit activities are made possible by recognizing a need, communicating the need and participating in alleviating the need. The link here is, of course, communication. As we've stressed over the last several years, rate increases potentially affect the ability of nonprofit organizations to communicate with people who need the services as well as those willing to give their time and or money in support of a worthwhile project. Rate increases which lead to a reduction in the volume of nonprofit mail may very well have tragic consequences for those in need.

We would like to point out that the most recent figures from the U.S. Postal Service indicate a 9.2 percent decrease in the volume of bulk rate nonprofit mail handled during the first quarter of Fiscal Year 1987 compared to the first quarter of Fiscal Year 1986. On the other hand, comparisons of income indicate that the USPS increased its revenues for the bulk rate nonprofit classification by 27.6 percent, an increase of more than $26 million.

There are, of course, a variety of possible explanations for the decrease in bulk rate volume. Obviously, some preferred rate mailers began using less costly and more efficient carrier routes and 5-digit presort discount rates. There is strong evidence to support this contention. Indeed, the USPS figures indicate a 24.9 percent increase in volume for carrier route sorted mail and a 4.5 percent increase in the volume of 5-digit presorted mail. However, what is even more interesting is that the Postal Service experienced only a .6 percent increase in the total volume of nonprofit mail. For the same period of comparison, First Class mail increased 3.1 percent, Second Class 4.6 percent and Fourth class increased by 12.2 percent. It seems to us ironic that now, as nonprofit organizations are being asked to provide even more community-based support services they are unable to communicate through the mails because the cost of doing so has, for many, become prohibitive.

Last year at this time was especially telling. Gramm-Rudman and the escalation of other costs associated with handling preferred rate mail in 1986 resulted in postage costs that increased upwards of 70 percent during the first three months of the year. Fortunately, your efforts to insure that those served by the nonprofit community would not suffer unduly as a result of increased mail costs resulted in a slight rate rollback thus enabling many nonprofits to continue their public service programs. But it appears that nonprofit activity, as measured by mail volume, may have reached a plateau. If indeed nonprofits have reached a rate plateau then we must all take steps to insure that there

will be no further reduction in communications or services. One way to accomplish this is to maintain nonprofit postages rates at their current levels through Fiscal Year 1988 and we encourage you to seek sufficient funding to accomplish this objective.

We recognize that this is more easily said than done. The administration continues its opposition to funding for the subsidy while huge budget deficits and Gramm-Rudman makes it necessary to reduce costs generally. In our view one way to insure that nonprofit programs providing needed services would continue to have access to reasonable postage costs is to institute a standard of public service as a prerequisite to qualifying for preferred mailing rates. Along with this we would recommend that the ratemaking statutes be amended to permit the Postal Rate Commission to take into account the public benefit of organizations eligible to use preferred rate mail. Already the USPS has begun a rigorous program to curb unauthorized mailings at nonprofit rates. It is our understanding that this enforcement activity has been more than moderately successful. The Legion feels that if more can be done to reduce unauthorized mailings then those steps should be taken. After all, if taxpayers are to bear the expense of subsidies, it is only proper that they should benefit from the activity the subsidy supports. Unauthorized mailings at nonprofit rates not only increases the postal costs for all of us, but also damages the reputation and weakens the cases of legitimate nonprofit organizations. Therefore, we would recommend that for-profit businesses be strictly prohibited from using nonprofit permits, under any pretense, for direct mail advertising or promotion not directly related to the stated aims of the nonprofit organization performing the mailing. This, of course, would not apply to legitimate advertisers appearing in periodical publications of nonprofit organizations which meet all other criteria. It would eliminate, however, abuses such as occur when for-profit organizations team up with nonprofit organizations in joint ventures requiring the preferred rate mailing permit holder to send promotional material at nonprofit rates in return for a cut of the profits.

Mr. Chairman, The American Legion is squarely behind the efforts of Congress to achieve fiscal responsibility. We recognize the deficit burden facing the Congress and our nation and we know of your concern for the beneficiaries of nonprofit programs and services and thank you for your continued support.

Mr. Chairman, that concludes our testimony. I'll be happy to respond to any questions that you may have.

Senator DECONCINI. Mr. Miller, let me thank you and please express to your National Commander and Executive Director, my appreciation of the Legion's interest in both of these subject matters and, in particular, your keen awareness of the importance of drug interdiction and the observation of the contest between two fine agencies.

I agree with you and I want to help them both. I have told Admiral Yost, Mr. von Raab, and Secretary Baker, that if you ask this Senator for assets to fight drugs, you are going to have a vote, bar none with no apologies for the costs as long as it is prudently expended.

It is time that we lay down these problems of fighting each other. I would like to ask you to request the Commander of the American Legion to take your appeal, if you can—as you have to us—to the White House, and to the Attorney General, who is the chairman of the Drug Policy Board. If your Commander feels as strong as I suspect he does, or your Executive Director regarding this issue, he should insist that they work together.

There is no need that one has to be bigger than the other or more powerful. It is the darndest thing that I have seen in Federal Government in my short 10 years here—this struggle between Yost and von Raab—two fine agencies with two fine Americans fighting over it. And I must say that Customs has voluntarily given up 9 million dollars' worth of helicopters in order to show good will, and Admiral Yost continues to want all the air interdiction, even over the land and the border on the Southwest, and it just ticks me off.

So I appreciate your strong position as set forth in your statement and only urge you, if you can, that perhaps you can have some influence really in bringing this thing forward, because if we do not put this together we are going to not only lose the war on drugs, we are going to lose the credibility with the people of this country.

Thank you very, very much.

Mr. MILLER. Mr. Chairman, I can say without equivocation that our national commander is absolutely dedicated to the eradication of illegal drugs and considers the fact that we have the largest level of importation, an actual invasion.

Thank you very much, Mr. Chairman.

Senator DECONCINI. Thank you.

Our next witness was to be Congressman Ronald Dellums. He is going to introduce Mayor Wilson.

Mayor Wilson, let met first apologize for missing my appointment yesterday. I had Senator Levin, Senator Riegle, Senator Cranston, and Senator Glenn all in my office at the same time. I do not want you to think that I believe Senators are more important than mayors, because I do not. It just so happened that there were five of them and only one of you, and so I hope you understand.

Is Melvin Jones here?

I'll tell you what. Why do we not wait for Congressman Dellums. I know this is very important to him.

We will have your testimony now, Mr. Jones.

STATEMENT OF MELVIN W. JONES, DIRECTOR OF FINANCE AND REVENUE, DISTRICT OF COLUMBIA

Senator DECONCINI. Mr. Jones is the director of finance and revenue, the District of Columbia.

Mr. Jones, if you would please summarize your statement, we will include the full statement in the record.

[The statement follows:]

STATEMENT OF MELVIN W. JONES

My name is Melvin Jones. I am Director of Finance and Revenue for the District of Columbia and Vice Chairman of the Multistate Tax Commission (MTC). I appear before you today on behalf of the 29 member and associate member states of the MTC. Formed in 1967, the MTC enables states to work together and help each other enforce the tax laws concerning large out-of-state taxpayers and resolve inconsistencies in the ways taxpayers are required to divide their income among the states in which they operate. I appreciate the opportunity to offer testimony concerning the Internal Revenue Service's (IRS) proposed fiscal 1988 budget.

The U.S. General Accounting Office (GAO), in a 1981 report prepared for House Ways & Means Committee Chairman Rostenkowski, warned that:

> "Multinational corporations have both the incentive and the opportunity to shift income between jurisdictions to take advantage of disparate corporate tax rates. The opportunity lies in the pricing of interorganizational transactions. Obviously, possession of incentive and opportunity does not axiomatically lead to abuse -- but to tax administrators, American and foreign, it represents a vulnerability to guard against." [In Determining the Income of Multinational Corporations, IRS Could Better Protect U.S. Tax Interests, September 30, 1981]

For years, state tax administrators have guarded against such vulnerability by employing the concept of unitary combination, both domestic and worldwide, in determining corporate tax liability. The Multistate Tax Commission

participated in the Working Group authorized by President Reagan in 1983 to study the issue of worldwide unitary combination. The Working Group was chaired by then-Treasury Secretary Donald Regan.

The Working Group, comprised of state and federal government representatives, as well as domestic and foreign businesses, eventually agreed that resolution of the worldwide unitary issue rested on three principles:

1) Water's edge unitary combination for both U.S. and foreign-based companies;

2) Increased federal administrative assistance and cooperation with the states to promote full taxpayer disclosure and accountability; and

3) Competitive balance for U.S. multinationals, foreign multinationals, and purely domestic businesses.

The record is clear: at the time the Working Group undertook its efforts, twelve states used worldwide unitary combination. Today, only three -- Alaska, Montana and North Dakota -- have not fully receded from that position. My understanding is that the North Dakota and Montana legislatures will consider bills to move to water's edge this session.

This movement by the states in little over two years clearly shows that the states took the Working Group process seriously, and made a good faith effort to comply with all of the principles contained in the report. In most cases, business representatives and state officials engage in long and detailed discussions to develop the laws appropriate to the individual states.

But good faith state efforts have not been matched by an

equivalent level of federal activity. Principle Two -- the increased federal assistance -- has been conspiciously lacking. The report of the Working Group sent in 1984 to President Reagan by then-Secretary Regan made this proposal:

> "In order to demonstrate the good faith and sincere intentions of the federal government, I am proposing at this time that the Treasury Department move immediately to implement the federal assistance measures recommended by the Working Group ..." [Working Group Report, p. iii.]

During the Working Group deliberations, in-depth discussions between state representatives and IRS staff resulted in a proposal for increased international tax staffing to guarantee states improved compliance with federal arm's-length standards. The Working Group report recommended that within five years, IRS should increase by approximately $50 million over the base for fiscal 1984, its resources annually devoted to enforcement of Sections 482, and 861, Subpart F and related provisions. In addition, the Working Group recommended that the IRS hire, over the fiscal 1984 base, approximately 475 international examiners, 475 revenue agents, and 300 additional personnel.

In light of that proposal, made on July 31, 1984, what has been implemented to date? The Internal Revenue Service has invited limited numbers of state tax personnel to attend their training courses on international issues. There has been no discernable increase in IRS audit activity, no increases in international tax examination staffs, and no provisions made for the sharing of information and assistance in audit activity.

Since the states have voluntarily forfeited their right to worldwide unitary combination, the IRS must substantially

increase its audit activity. As states retreat from worldwide unitary combination, they become increasingly reliant on the IRS to maintain compliance. In addition, water's edge laws enacted in most states assume a heightened level of IRS audit activity. Enhancement of the existing use of the arm's length method is crucial since the 1981 study by the GAO revealed that IRS auditors could confirm proper use of the arm's-length method in only three percent of the cases reviewed.

We are pleased, however, that in the Tax Reform Act of 1986, Congress mandated the IRS to conduct a comprehensive study of intercompany pricing rules and that the IRS carefully consider whether the existing regulations should be modified in any way. We have been in contact with IRS staff concerning this study of Section 482 issues and look forward to working with them on this study.

We urge Congress to immediately implement then-Secretary Regan's commitment of 1984 to provide federal assistance to the states in enforcing full disclosure by multinational firms. Without this critical element, the entire process of the states retreating from worldwide combination will simply result in shifting legitimate tax responsibilities of multinational firms to domestic corporations and small business.

Finally, we are not unaware of the constraints Congress is forced to operate within due to the budget deficit. Difficult choices must be made as to budget priorities. However, increasing the resources of the IRS will significantly enhance the Service's effectiveness in determining and collecting legitimate taxes owed by corporations. Enhancement of IRS effectiveness in determining and collecting legitimate taxes owed by corporations will in turn make the states more effective in determining and collecting taxes owed to them. The result will mean increased revenues to the states and the federal government.

Mr. JONES. Thank you, Mr. Chairman.

My name is Melvin Jones. I am the director of finance and revenue here in the District and I serve as vice chairman of the Multistate Tax Commission. I appear before you today on behalf of the 29 member and associate member States of the Multistate Tax Commission.

Formed in 1967, the Multistate Tax Commissionen enables States to work together and help each other enforce the tax laws concerning large out-of-State tax payers and resolve inconsistencies in the ways taxpayers are required to divide their income among the States in which they operate. I appreciate, Mr. Chairman, the opportunity to offer testimony concerning the Internal Revenue Service's proposed fiscal year 1988 budget.

The U.S. General Accounting Office in 1981 in a report prepared for the House Ways and Means Chairman Rostenkowski warned that, and I quote:

> Multinational corporations have both the incentive and the opportunity to shift income between jurisdictions to take advantage of disparate corporate tax rates. The opportunity lies in the pricing of interorganizational transactions. Obviously, possession of incentive and opportunity does not axiomatically lead to abuse, but to tax administrators, American and foreign, it represents a vulnerability to guard against.

The Multistate Tax Commission participated in the working group authorized by President Reagan in 1983 to study the issue of worldwide unitary combination. The report of the working group, sent in 1984 to President Reagan by then Secretary Regan, made this proposal, and I quote:

> In order to demonstrate the good faith and sincere intentions of the Federal Government, I am proposing at this time that the Treasury Department move immediately to implement the Federal assistant measures recommended by the working group

Mr. Chairman, we urge Congress to immediately implement then Secretary Regan's commitment of 1984 to provide Federal assistance to the States in enforcing full disclosure by multinational firms. Without this critical element the entire process of the States retreating from worldwide combination will simply result in shifting legitimate tax responsibilities of multinational firms to domestic corporations and small businesses.

Finally, we are not unaware of the constraints that Congress is forced to operate within the budget deficit. Difficult choices must be made as to budget priorities. However, increasing the resources of the IRS we believe will significantly enhance the service's effectiveness in determining and collecting legitimate taxes owed by corporations.

Enhancement of IRS's effectiveness in determining and collecting legitimate taxes owed by corporations will in turn make the States more effective in determining and collecting taxes owed to them.

In conclusion, Mr. Chairman, the result will mean increased revenues to the States and, of course, to the Federal Government.

Thank you.

Senator DECONCINI. Thank you very much, Mr. Jones. I particularly want to thank you for taking the time, because you obviously are addressing a subject matter here that does not just affect the District of

Columbia; indeed, it affects the State of Arizona and many other places.

Mr. JONES. That is right.

Senator DECONCINI. I compliment you, and please express our thanks and appreciation to the Mayor and the City Council for either permitting you or directing you or for your convincing them that it is worthwhile to bring this to our attention.

It is a very good point and in our markup, we will certainly take careful consideration of your testimony.

Mr. JONES. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you.

I am very pleased to have Congressman Ronald Dellums here of Oakland, CA, and I want to say for the record, this is a Congressman who works so hard I cannot believe it. He is all over the Capitol. He is in my office and he is in Roybal's office within 10 minutes. He is not a track star, but maybe basketball was your sport, Congressman.

We welcome you here. You indeed are a tremendous advocate and voice for Oakland and your constituents, and we appreciate the manner in which you present yourself and your case. It is indeed going to have a lot of influence on this panel, so please proceed.

STATEMENT OF HON. RONALD V. DELLUMS, U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. DELLUMS. Thank you very much, Mr. Chairman. I appreciate the remarks that you have expressed. Mr. Chairman, in the interest of time I would proceed directly to a brief statement that I would like to read into the record at this time.

I might say at the outset that I am pleased to be joined this morning by my distinguished colleague and friend the Honorable Lionel Wilson, the mayor of Oakland, the city that I have had the pleasure and privilege of representing now in my ninth term. My colleague is to my right and I would imagine at the appropriate point in time that he would introduce other colleagues who will be joining him for his testimony this morning.

Senator DECONCINI. Congressman, if they would like to come up and sit here—anybody who is going to testify—please do so.

Mr. DELLUMS. That is fine. They have joined me.

Mr. Chairman, the city of Oakland is a city that I have the pleasure of representing now for my ninth term. Much of that time I have represented the city of Oakland in the House of Representatives along with my distinguished colleague, Pete Stark.

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to appear before you this morning. I am here to express my unqualified support for the fiscal year 1988 General Services Administration budget proposal to approve a 30-year lease/purchase contract for a Federal building in the city of Oakland.

Mr. Chairman, this project originated with a determination by the General Services Administration of a need in the bay area to replace

expensive, scattered, leased office space with a more economical alternative to house Federal workers.

When the GSA commenced its search in the bay area for a site for a Federal building, the city of Oakland and its mayor, Lionel Wilson, welcomed GSA with open arms. The city entered into a cooperative agreement that led to the design of an outstanding project, Mr. Chairman, which GSA anticipates as a model for the future of beneficial, cost-saving alternative financing for Federal buildings across this entire Nation.

Mr. Chairman, in 1985 Oakland agreed to provide a prime piece of real estate in the city of Oakland's downtown redevelopment for the building. When I say provided, I mean donated, free of charge. The Federal Government is now at this moment the proud owner of a $10 million parcel right next to the Bay Area Rapid Transit [BART] line, next to interstate highways, and within minutes of local airports. No one can match that.

But the city of Oakland went further than that, Mr. Chairman. It has agreed to facilitate the financing and construction of the building on terms extremely beneficial to the Federal Government. It has worked with the GSA from the beginning to design a state-of-the-art Federal building, incorporating all GSA requirements and specifications. It has even agreed to help with parking, Mr. Chairman.

The result, I am proud to say, is a project that is both the linchpin of Oakland's decades-long effort at downtown redevelopment and the flagship of GSA's effort to devise cost-saving alternative financing for Federal buildings across the country. It is a project that cannot be beaten. By GSA's reckoning, it will save $100 million in present value dollars over conventional financing mechanisms. By GSA's reckoning it will save $51 million over other projects in the bay area, and by Oakland's reckoning, Mr. Chairman, the savings are even more, to the tune of $70 million.

For that reason the Oakland Federal buildings have been enthusiastically received by this committee and the Congress. I would remind the Chair and members of the committee that in fiscal year 1986 this committee provided $8 million for the planning and design of the project. In that same year, 1986, upon submission of plans, the House Public Works Committee approved design and construction. It has most recently and in writing made it clear that it will stand by that previous approval.

After years of cooperative effort by Oakland and the GSA, after investment of millions of U.S. taxpayer funds in the planning and design of this building, and with the need to have a facility ready to replace rented space when the spaces are up, the Oakland Federal Building is ready to go with your final approval in the fiscal year 1988 Treasury-Postal bill.

Unfortunately, Mr. Chairman, success has its price, and recently there have been some unfounded criticisms aimed at this project. Let me spend just a moment on this particular issue. Currently there are 2,000

Federal workers with offices in Oakland. All of these are in leased space, Mr. Chairman, as the only federally owned building in Oakland is a vacant, obsolete VA facility. Yet there are some 7,000 Federal workers who live in Oakland and surrounding Alameda County who must commute to other locations.

Many of these workers will clearly benefit from a workplace in Oakland.

Furthermore, Mr. Chairman, downtown San Francisco is only 7 minutes by BART from the Oakland Federal Building location, meaning that the Oakland building is, interestingly enough, more convenient to downtown San Francisco than many locations in San Francisco presently being used by a number of our Federal workers. There is not any major dislocation or inconvenience to Federal workers from this project, Mr. Chairman. I assure you of that.

Mr. Chairman, the city of Oakland, its mayor, and I welcome the possibility of the Oakland Federal Building. We want the Federal Government in Oakland. We want the Federal flag to wave over the center of our downtown. We want to showcase our cooperative effort to develop a state-of-the-art facility that will serve as a model for the future GSA projects around the country.

Oakland is a progressive, innovative and receptive city. We want you to know that, and we want the Nation to know that. We believe we have put together a project that will serve the Federal Government well and save lots of money in the process, that no one, and I repeat Mr. Chairman, no one can match.

In providing Federal approval to the Oakland Federal Building, Mr. Chairman and members of the subcommittee, you can be assured that you will be doing a service not just to Oakland, not just for the bay area, but for the citizens and taxpayers across this country. They will thank you, and so will I, many times over.

I might add in conclusion this final comment, Mr. Chairman. We do not perceive ourselves as being here this morning in competition with anyone. We are here in support of a project that meets a need, a need identified by GSA, a project supported by this administration and those of us at the witness table this morning. It may not solve the entire problem of Federal housing facilities in the greater bay area, but it meets a substantial and awesome need.

I would ask you to contemplate what would the traffic flow be like in the District of Columbia if indeed every single Federal activity that is now in the surrounding areas of Northern Virginia and Maryland were suddenly all concentrated in the city of Washington?

I ask you to arise with me some morning and travel from Oakland to San Francisco across the bay and you will be vividly impacted by the reality that thousands of workers in the east bay travel across that bridge each working day of their lives into San Francisco. I would suggest that this project not only is cost efficient, it is environmentally sound, it is fuel efficient, it is a project that we enthusiastically support, and with that brief explanation, Mr. Chairman, I would yield back the

balance of my time and I thank you for the pleasure and privilege of testifying.

[The statement follows:]

STATEMENT OF HON. RONALD V DELLUMS

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to appear before you. I am here to express my unqualified support to the fiscal year 1988 General Services Administration budget proposal to approve a 30-year lease purchase contract for a Federal building in Oakland.

This project originated with a determination by the General Services Administration of a need in the bay area to replace expensive, scattered, leased office space with a more economical alternative to house Federal workers.

When the GSA commenced its search in the bay area for a site for a Federal building, the city of Oakland, and its mayor, Lionel Wilson, welcomed GSA with open arms. The city entered into a cooperative agreement that led to the design of an outstanding project, which GSA anticipates as a model for the future of beneficial, cost-saving alternative financing for Federal buildings across the Nation.

In 1985, Oakland agreed to provide a prime piece of real estate in the center of Oakland's downtown redevelopment for the building. When I say provided, I mean donated, free of charge. The Federal Government is now the proud owner of a $10 million parcel, right next to the Bay Area Rapid Transit [BART] line, right next to the interstate highways, and within minutes of the local airports. No one can match that.

But the city of Oakland went farther than that. It has agreed to facilitate the financing and construction of the building on terms extremely beneficial to the Federal Government. It has worked with the GSA from the beginning to design a state-of-the-art Federal building, incorporating all GSA requirements and specifications. It has even agreed to help with parking.

The result, I am proud to say, is a project that is both the linchpin of Oakland's decades-long effort at downtown redevelopment and the flagship of GSA's effort to devise cost-saving alternative financing for Federal buildings across the country. It is a project that can't be beat. By GSA's reckoning, it will save $100 million in present-value dollars over conventional financing mechanisms. By GSA's reckoning, it will save $51 million over any other project in the bay area, and by Oakland's reckoning, the savings are even more, $70 million.

For that reason, the Oakland Federal Building has been enthusiastically received by this committee and the Congress. In fiscal year 1986, this committee provided $8 million for the planning and design of the project. In 1986, upon submission of plans, the House Public Works Committee approved design and construction. It has recently made clear that it will stand by that approval.

After years of cooperative effort by Oakland and the GSA, after investment of millions of U.S. taxpayer funds in the planning and design of this building, and with the need to have a facility ready to replace rented space when the leases are up, the Oakland Federal Building is ready to go, with your final approval in the fiscal year 1988 Treasury-Postal bill.

Unfortunately, success has its price, and recently there have been some unfounded criticisms aimed at the project. Let me spend just a minute on this issue. Currently, there are 2,000 Federal workers with offices in Oakland. All of these are in leased space, as the only federally owned building is a vacant, obsolete VA facility. Yet there are some 7,000 Federal workers who live in Oakland and surrounding Alameda County, who must commute to other locations. Many of these workers will clearly benefit from a work place in Oakland. Furthermore, downtown San Francisco is only 7 minutes by BART from the Oakland Federal Building location, meaning that the Oakland building is more convenient to downtown San Francisco than many locations in San Francisco. There is not any major dislocation or inconvenience to Federal workers from this project, Mr. Chairman, I assure you.

Mr. Chairman, the city of Oakland, its mayor, and I welcome the possibility of the Oakland Federal Building. We want the Federal Government in Oakland. We want the Federal flag to wave over the center of our downtown. We want to showcase our

cooperative efforts to develop a state-of-the-art facility, that will serve as a model for future GSA projects around the country. Oakland is a progressive, innovative, and receptive city. We want you to know that, and we want the Nation to know that. We believe we have put together a project that will serve the Federal Government well, and save lots of money in the process, that no one, I repeat, no one, can match.

In providing final approval to the Oakland Federal Building, Mr. Chairman and members of the subcommittee, you can be assured that you will be doing a service not just to Oakland, not just to the bay area, but to the citizens and taxpayers across this country. They will thank you, and so will I, many times over.

Senator DECONCINI. Congressman, let me thank you for your statement and, in fact—I know the mayor is going to stress this—but this is a very innovative approach that the city has put together and I compliment you, the mayor, the city council, and those who have assisted in doing so.

As you know, the first problem is money. You have really addressed that and attacked it by minimizing the amount of Federal dollars that have to go out.

The second problem is the competition, and I realize you are not competing, except for a good project here. We have to take into consideration, obviously, the Federal workers, the community, and the economic environment. We will hear from Mayor Feinstein and the city of San Francisco, but I am thoroughly convinced that there is justification for a major Federal complex in Oakland.

I am also satisfied that San Francisco has needs and, in fact, rents are going down in San Francisco. I know that there is a tremendous amount of competition here, but also there is a tremendous amount of good will between the communities. Thanks to the leadership that is in this room—and to Mayor Feinstein, who just walked in—I can assure you, Congressman, that your statement and prestige here will have a great deal of influence on this committee. I must say that it is because of your determination and persistence that the $8 million was appropriated and we moved ahead on this. Again, thank you very much for being here.

STATEMENT OF HON. LIONEL J. WILSON, MAYOR, CITY OF OAKLAND, CA

ACCOMPANIED BY:

WILLIAM DOWNING, PRESIDENT, OAKLAND CHAMBER OF COMMERCE
GEORGE WILLIAMS, ECONOMIC DEVELOPMENT DIRECTOR

Senator DECONCINI. Mayor Wilson, let me welcome you here and again apologize for the problem of scheduling yesterday. I will be more than happy to attempt to meet with you another time. I am going to be in San Francisco in August so maybe I will cross the bay with you, Congressman and see the mayor.

Mayor, your leadership is known nationally. What you have done for the city of Oakland and what you have brought about is outstanding. We have worked together on NFL problems and other areas of mutual interest. I have viewed your statement here and I will ask you to summarize it if you could due to time. We will put the entire statement in the record, if you will proceed.

Mayor WILSON. Thank you, Mr. Chairman.

First let me, if I may, thank my Congressman for his tremendous support that he has provided to our city and to a large part of his district. His support has, as indicated today, been strong, it has been constant, and we in the city of Oakland are highly appreciative of that support.

PREPARED STATEMENT

Mr. Chairman and members of the subcommittee, if I may, I would first offer my written statement which is on file for the record and for the consideration of the chairman and the subcommittee.

Senator DECONCINI. Without objection.

[The statement follows:]

STATEMENT OF LIONEL J. WILSON

Mr. Chairman, Members of the Subcommittee, I deeply appreciate this opportunity to appear before you on behalf of the City of Oakland. I am here to request your approval of the FY 1988 budget proposal submitted by the Administration to permit the General Services Administration to enter into a 30-year lease-purchase contract for the Oakland Federal Building.

Mr. Chairman, the decision before you is an important one. It is important -- critical -- to the City of Oakland. That is why I am here. But its importance extends beyond that. What you have before you is a City that stepped into the breach more than three years ago, when no other city in the Bay area wanted a Federal office building, started from scratch to work with the GSA cooperatively to devise a flagship federal building, with all the resources, the ingenuity, and the good will that we could bring to bear. What the GSA and Oakland together have come up with is a building planned and designed around concepts so novel and so favorable to the Federal government that GSA wants to make it a model of how future federal buildings should be built. It is a building that has been submitted to rigorous scrutiny every step of the way. What you have before you, Mr. Chairman, is not just a model building, it is a model process of cooperation between a City and the Federal government to put together the best possible project that money can buy.

Mr. Chairman, you and the Members of the Subcommittee are well aware of the merits of the proposed Oakland Federal Building. The GSA has appeared before the Subcommittee and presented the Oakland building as one of the highlights of its budget presentation. It has indicated that, from its perspective, the novel lease-purchase arrangement and other aspects of the design, financing and construction of the

building that I will describe will result in savings of more than $100 million in present-value dollars over conventional financing mechanisms.

You are also aware of the need. Currently, of the more than 20,000 Federal workers in the Bay area, more than 10,000 are housed in scattered, expensive, leased space. According to the GSA, in FY 1986, it leased over 2.4 million square feet at a cost of over $40 million. It was this inordinately high cost that led GSA several years ago to determine that a Federally owned building would save money, and it commenced looking in the Bay area for a site.

After San Francisco turned down the GSA, by preempting the site GSA was looking at for a Marriott hotel, and indicating it had no interest in a Federal building, Oakland welcomed GSA with open arms. More than two years ago, Oakland donated to the Federal government two full city blocks for the site of the building, a site conservatively valued by the GSA at $3.5 million and by the City at its present commercial value of nearly $10 million.

But that was only the first step. The City of Oakland then proceeded to work with the GSA to design a building from the beginning according to all GSA requirements and specifications. We have offered to provide municipal bonds on favorable interest terms to assure lowest-cost long-term financing for the project. The City will construct the project in cooperation with the GSA and according to plans prepared by GSA which will result in the ideal combination of highest quality at lowest cost. We have made the Oakland Federal building the flagship of our downtown redevelopment effort, afforded it the prominence fitting a major Federal project, on a location right on the Bay Area Rapid Transit (BART) line, right next to Interstate highways and within minutes of local airports.

The Congress and this Subcommittee recognized the tremendous efforts of the City to provide a preeminent project on the most favorable terms by providing $8 million in the FY 1986 Treasury-Postal appropriation for the planning and design of the Oakland Federal building. The soundness of these plans was further verified by the House and Senate Public Works Committees, which last year approved the design and, in the case of the House, the construction of the Oakland Federal Building. In fact, the Chairman of the House Public Works Committee has indicated by letter that the Committee's approval of the Oakland Federal Building is final, and it has no intention of reconsidering the issue.

The result of this multi-year cooperative effort between Oakland and the GSA is a project that not only will save $100 million over conventionally financed buildings, but one that can stand on its merits against any last minute attempts to shake the Oakland project's foundations.

San Francisco, which earlier sold the site GSA was looking at for a Marriott Hotel, has now come in at the eleventh hour with a proposal for the Federal government to buy a vacant building built by a Canadian developer at a cost estimated by GSA to be $51 million greater and by Oakland to be $73 million greater than the Oakland Federal Building. Then, last week, before the House Appropriations Subcommittee on Treasury, Postal Services and General Government, San Francisco retreated from that position and offered to allow the Federal government to buy one of any number of vacant building in various states of repair and disrepair.

Mr. Chairman, the City of Oakland would not object if future needs for housing Federal workers in the Bay area led to consideration of a future San Francisco site, in a sound process where all other options are considered. But the immediate need for approximately 800,000 square feet by 1990

must be judged on the merits. I believe that the Oakland Federal building stands on its merits. It is designed to meet GSA requirements in a preeminent location as the flagship of downtown Oakland, convenient to all forms of transportation. It is to be built on land donated by the City, with favorable financing and favorable construction terms. Millions of taxpayers' funds have been invested in the planning and design. It is ready for construction on a timeline that will meet GSA's needs to replace expensive, leased space. It has GSA's enthusiastic endorsement as a project that will serve as a model for other Federal buildings across the Nation. On the merits, the Oakland Federal Building is fully worthy of final approval by this Subcommittee and the Congress.

Once you get past the primary considerations for approval of a new Federal building -- cost and serviceability to the needs of the Federal government -- on which the Oakland Federal building prevails on the merits, San Francisco tries to raise second-level considerations concerning job location and convenience.

With respect to job location, I was dismayed at some of the unjustifiable suggestions that have been made. Oakland and the East Bay Region contain well over two million people, a third of the population of the Bay area. Oakland is the center of the East Bay metropolitan area, which is larger in both population and trade than the West Bay San Francisco metropolitan statistical area. Of more than 20,000 Federal workers in the Bay area, some 7,000 live in Oakland and Alameda County. Currently, only 2,000 Federal workers actually work in Oakland, all in leased space. After completion of the Oakland Federal building, 5,000 Federal workers would work in Oakland. Are Federal workers who live in Oakland and the surrounding communities not entitled to work in a location more convenient to them? Are Oakland citizens second-class citizens who cannot have their needs and convenience taken into consideration?

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With respect to convenience, arguments raised by San Francisco against the Oakland project are not supported by the facts. The Oakland Federal building is located on BART, on busroutes and right next to the area's major Interstate Highways. For workers who commute by car from the San Francisco area, the commute is a reverse commute, going out of San Francisco when most traffic is going into the City and then going into San Francisco when traffic is leaving the City. In fact, the Oakland Federal building, located conveniently to all forms of transportation and right across the Bay Bridge from San Francisco, is more convenient to Federal workers from all areas of the Bay than many of the sites proposed at the last minute by San Francisco. Convenience to Federal workers was in fact one of the major factors that led to the selection of the Oakland City Center site to begin with.

San Francisco has also been raising the issue of a survey conducted by the Union Local representing San Francisco. A quick look at the survey form will reveal it is not an unbiased presentation of the situation. Furthermore, it is based on only 834 responses to a survey distributed to 2,900 workers, out of a Federal employee base of more than 20,000. Clearly, it cannot be considered dispositive or scientific. I dare say if I asked the 7,000 workers in Oakland and Alameda County where they would rather work, the answer would be unanimous in favor of Oakland.

Mr. Chairman, the City of Oakland has cooperated to the fullest extent possible to develop, with the GSA, a project of which both Oakland and the Federal government can be proud. The incentives offered by Oakland are, I would venture to say, unprecedented. GSA hopes that the model followed in the planning of the Oakland building is one that will be carried forward into future projects across the country. The Oakland Federal building is important to Oakland. It is the linchpin of a decades-long effort to develop our downtown. But I

believe it is also important to the future of Federal office development across the country. It shows that a City and the Federal government can work together cooperatively, can develop beneficial alternative financing, can work rationally through the Congressional approval process based on merit, and can come up with an end product, a building, that is a showcase workplace for Federal employees. We have gone through this arduous process patiently and with perseverance. The Oakland Federal building has one more step to go, and, as the Mayor who has committed himself tirelessly to this effort, I respectfully request that this Subcommittee approve the GSA request for language in the FY 1988 Treasury Postal appropriation to permit the Oakland Federal building to go forward.

Thank you very much.

Mayor WILSON. In the interest of time I would also, if I may be so presumptuous as to adopt the full statement of my Congressman, Ronald V. Dellums, and ask that it be shown in the record as a statement adopted by myself, Mayor Lionel J. Wilson, the mayor of the city of Oakland, as a statement supported completely by the city of Oakland.

Senator DECONCINI. The record will so show.

Mayor WILSON. I would now like to, if I may, Mr. Chairman and members of the committee, simply address a few remarks. Again, the intent of my remarks are not to be contentions or to indicate a sense of competition. Throughout my career over the past 10 years as the mayor of the city I have constantly been supportive of most of the activities, or many of the activities in the city of Oakland and I have had a history of working in a coordinated manner with the city of San Francisco.

However, in this instance the way this matter came to the attention of the city of Oakland was when some approximately 4 years ago when the GSA owned a piece of property in San Francisco—I believe it was in the present Yerbo Buena project—and GSA even at that time had determined that it was in the best interest of the Federal Government that they coordinate and bring together the facilities and the housing for Federal employees in the bay area and contemplated the construction of a building on that property.

When the city and county of San Francisco elected that instead of the construction of the GSA building on that property that the property could be better used in terms of that city's interest by the construction of a hotel, and the property was then sold by GSA to the city and county of San Francisco. I believe it was for some roughly $17 million. I do not know whether the hotel is constructed or not, but in any event, at that point GSA, then mindful of the need, turned to Oakland and we began to have conversations in terms of the potential for putting up a building in Oakland.

When I first met with the regional administrators of GSA around this issue, I was told that if we could find a site and provide that site to the Government that there was an excellent opportunity for the construction of a building in Oakland. I found a site and the city of Oakland offered that site. I was told that it was a good site and it was one that appeared to be acceptable.

However, within a matter of just a month or two GSA contacted my office and informed us that that site was not acceptable because the building would be too small, that it would not adequately serve the needs of GSA. It was in that framework that we found ourselves in a situation where we had to find other land which would provide for a larger building.

We then found that land in our city center development area consisting of two square blocks and in October 1985 I came to Washington and in a ceremony presented the deed to that property to the Federal Government. GSA then proceeded. I might say that that property is in

the city center. It is in an area that the city of Oakland has been attempting to develop for at least 20 years.

Long before I decided to leave the superior court the city of Oakland was engaged in a program of redeveloping its city center, and in spite of that, over 20 years we have been unable to complete that redevelopment. Now this building would provide a linchpin for completion of a development in the city center and we feel that it is critical to the further development of our city center development.

As has been pointed out, it is a building that does have adequate public transportation. It is well located in the city. I might also point out if I may, Mr. Chairman, that the city of Oakland has cooperated fully all along the way with GSA. Currently we have adopted a resolution provided by—our city council unanimously adopted to proceed with the financing that the city is offering of this project.

We believe that it is an excellent project and one that will be in the best interest not only of the city of Oakland but certainly of the Federal Government also. Currently I am informed that the GSA spends some roughly $40 million a year in leases. At the completion of the 30-year leasing period of this building, after payment of the 30-year lease, this building will then adhere to the Federal Government and will be the property of the Federal Government.

Mr. Chairman, I would like to introduce my aid here, our economic development director who is with me, Mr. George Williams. And I believe that the president of our chamber of commerce, Mr. William Downing, is here and will testify also.

Senator DECONCINI. Thank you. Welcome.

Mr. DOWNING. Thank you, Mr. Chairman. I will be very brief. I am Bill Downing, president of the Oakland Chamber of Commerce, and will summarize.

You have no doubt received economic analyses prepared by both cities arguing the merits of the project either way. We leave the economic comparisons to the experts. We think the more compelling issue is one of social equity. While one San Francisco official described the loss of some GSA employees as merely symbolic, the loss of the project would be a stunning blow indeed to Oakland.

San Francisco has enjoyed a postwar period of spectacular growth and faces a future of enormous promise, but for Oakland the past has been difficult and the future is uncertain. In the last several years, however, Oakland has launched a major effort to recapture its former position and prosperity.

The GSA Federal Center is viewed as an absolute key to Oakland's rebirth in terms of providing jobs, retail activity, an architectural centerpiece and a clear signal to all that Oakland has turned the corner and is coming back. This positive impression is vital in helping the city attract a statewide headquarters of the University of California which has admitted its considerable interest in joining GSA in Oakland. Conversely, the loss of GSA would do irreparable long term harm, particularly when weighed against the high level of anticipation with which the community holds the project.

With these points in mind the Oakland Chamber of Commerce and business and labor leaders throughout the community hope and feel that you will vote in favor of the project for our city.

Thank you.

[The statement follows:]

STATEMENT OF WILLIAM S. DOWNING

In recent weeks you have been contacted in writing by representatives of Oakland and San Francisco regarding location of a proposed General Services Administration center in downtown Oakland. The building was first proposed in 1984 as a means of reducing GSA's high cost of leased space in downtown San Francisco office buildings (the figure had reached $36 million per year).

In October 1985, the city of Oakland gave GSA two prime downtown blocks adjacent to city hall for construction of a proposed Federal office center. The proposed building now under design would approximate 1 million gross square feet and would accommodate 3,000 to 4,000 employees. Oakland was anxious to spur a lagging downtown economy with new faces. For its part GSA felt there were major economies which would result without unduly hurting the employment picture in San Francisco (the agency employs 14,600 in San Francisco and 2,000 in Oakland).

Oakland thus proceeded on the assumption that it had a project of major proportions, especially in lieu of any official or concerted opposition from the city of San Francisco. In similar fashion, a number of investors announced plans for retail development predicated on the new office population. Oakland was making substantial progress.

Suddenly, in the past 2 months, the mayor of San Francisco has come forth in opposition to the transfer of any workers to Oakland. She deplores the effects of dislocation on the workers who would be transferred to Oakland, yet over 46 percent of the total GSA work force lives in the Oakland-east bay area. She also raises concerns about the economic effects to her city. But, several weeks earlier she was decidely positive about the health of her city. In a story for the San Francisco Chronicle she extolled a low unemployment rate, booming retail sales, and per capita income well above the national average. All of which led her to say, "I don't mean to brag, but these indicators convey a simple message: San Francisco's economy is not only healthy but thriving." This, we would point out, is in sharp contrast to conditions in Oakland.

The most baffling aspect of this belated opposition is the complete reversal in San Francisco's attitude toward having another major GSA building added to downtown. As soon as Oakland became a viable alternative, San Francisco was all for it. But 5 years ago it successfully contrived to have GSA sell a prime site slated for a Federal building to Marriott for a large hotel now under construction.

You have no doubt received economic analyses prepared by and for both cities arguing the merits of the project both ways. We leave the economic comparisons to the experts. We think the more compelling issue is one of social equity. While one San Francisco official described the loss of some GSA employees as merely symbolic, the loss of the project would be a stunning blow to Oakland.

San Francisco has enjoyed a postwar period of spectacular growth and faces a future of enormous promise. But for Oakland the past has been difficult and the future is uncertain. The turbulance of the sixties signaled an erosion of retail commerce, increased unemployment, and a higher crime rate. Oakland's image has suffered accordingly.

In the past several years, Oakland has launched a major effort to recapture its former position and prosperity. The GSA Federal center is viewed as an absolute key to Oakland's rebirth in terms of providing jobs, retail activity, an architectural centerpiece and a clear signal to all that Oakland has turned the corner and is coming back.

This positive impression is vital in helping the city attract the statewide headquarters of the University of California which has admitted its considerable interest in joining GSA in Oakland. Conversely the loss of GSA would do irreparable long-term harm, particularly when weighed against the high level of anticipation with which the community holds the project.

With these points in mind, the Oakland Chamber of Commerce and business and labor leaders in our community hope and feel that you will vote in favor of the project for our city. We think it is Oakland's turn.

Senator DECONCINI. Thank you very much, and mayor, thank you for your testimony. It is extremely helpful, and all the exhibits that you asked to be part of the record will be so ordered.

Let me say that I really admire the city of Oakland for its innovativeness. We have had some efforts, which were not quite as magnificent in scope as this one in Arizona, but we have been trying to do what you have accomplished. We have not come down the road as far as you have and I think that the fact that the business community is a partner and not an advocate makes a lot difference. The obvious unity of the entire community is very helpful.

We thank you mayor for traveling so far, and I can assure you we will carefully review this and do what we can to implement a program that is good for the Federal Government and probably will help Oakland too.

Thank you.

Mayor WILSON. If I may, Mr. Chairman, may I make one observation, please. I believe that in the course of the submission of testimony and evidence before the chairman and this committee this morning, that a piece of evidence may well be offered which is in the nature of a questionnaire. I gather it is put together for the purpose of showing the interest of some of the employees in the city and county of San Francisco employed by Federal bodies.

I would ask the committee to very carefully review this piece of evidence. I think that in terms of the credibility of the piece of evidence that I would like to point out that No. 1, it was taken by some union people who had their own interest to serve.

Second, that in the way it was presented, in the top reading paragraph that opens it points out that: "A strong possibility exists that you could be forced to move to Oakland."

Well, that could be very misleading. It could be construed in different ways.

Thank you, Mr. Chairman.

Senator DECONCINI. Mayor, I can assure you that those of us who have been around a while and understand what the different sides are attempting to do and probably are involved in it ourselves. We will carefully review every document that is submitted on both sides of this issue from both sides of the bay.

Mr. DELLUMS. Mr. Chairman, thank you.

Senator DECONCINI. You are welcome, Congressman.

Mayor WILSON. Thank you, Mr. Chairman.

STATEMENT OF HON. DIANE FEINSTEIN, MAYOR, CITY OF SAN FRANCISCO, CA

ACCOMPANIED BY:

JIM GONZALEZ, BOARD OF SUPERVISORS, CITY AND COUNTY OF SAN FRANCISCO

HENRY MORRIS, PRESIDENT, SAN FRANCISCO DOWNTOWN ASSOCIATION

STAN SMITH, LABOR COUNCIL OF THE AFL-CIO

Senator DECONCINI. Speaking of the other side of the bay, we will now have the honorable mayor of the great city of San Francisco, Mayor Diane Feinstein, and whoever she cares to bring with her.

I want to welcome you, Mayor Feinstein, and let me say that you have led the city with the city council—a great city of this Nation and the State of California—to tremendous heights. We understand your deep interest in maintaining the Federal complex and Federal employees there.

PREPARED STATEMENTS

We ask that due to time constraints this morning, and because the Senate did recess, I am going to have to leave shortly. We would ask that you summarize your statement. Your full statement and any statements of your colleagues will appear in the record in full. I would appreciate your summary and introducing the people that you have with you. I think I have met some of them.

[The statements follow:]

STATEMENT OF DIANNE FEINSTEIN

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you, and to explain the position of the City of San Francisco regarding a new federal building.

My statement today will not contest the funding of a new federal office building for the City of Oakland. That has never been my position. Rather, I am asking the Subcommittee to consider also funding the purchase or lease/purchase of a building in San Francisco that can accommodate a substantial majority of those federal employees now occupying leased space in San Francisco. I believe we can demonstrate, in 3 different examples, that this can be done cost-effectively and promptly, and that rehousing San Francisco-based workers in San Francisco is the more practical and equitable approach. I further believe that this can be accomplished without interrupting the schedule for the Oakland building, although the size of that building may need to be reevaluated.

THE NEED

According to the General Services Administration, there are currently 6,178 federal employees occupying leased space in San Francisco. Approximately 3,500 of them are in space with leases that expire by 1990. The balance, or nearly 2,700, occupy space with leases that expire by 1995. An additional 1,614 federal workers now occupy leased space in Oakland, and an unidentified number are scattered in space elsewhere in the Bay Area.

Under the current plans for a new federal building in Oakland, it would appear that all the Oakland-based workers and up to 3,838 of the San Francisco-based workers would eventually be rehoused in the new building (assuming the GSA minimum use ratio of one employee per 137 square feet, and 747,500 useable square feet). That would constitute a federal job dislocation of unprecedented magnitude. It is one thing when market forces result in a major job loss to a City; it is quite another when the federal government subsidizes the job loss. Clearly, any Mayor would be concerned if confronted with a job dislocation of this magnitude.

In addition to the blow to the City's economy this causes, there is an enduring "people" cost, affecting the federal workers themselves. The San Francisco Labor Council recently conducted a survey of federal office workers in San Francisco in leased space that would eventually be rehoused by the GSA. Questionnaires were distributed to 2,900 workers, and 834 were completed and the results tabulated. A complete analysis is attached to my testimony. An enumeration of three of the ten questions and the responses, outlined below, demonstrates the potential real and personal costs of moving all these jobs to Oakland:

QUESTION 1.	I currently live:	a) In San Francisco	350
		b) In Marin County	75
		c) On the Peninsula	91
		d) In the East Bay	318

QUESTION 9. Moving my job to Oakland would:

a)	Be inconvenient and create a hardship	510
b)	Make no difference to me	57
c)	Be more convenient for me	266

QUESTION 10. I prefer that my job:

a)	Remain in its current location in S.F.	538
b)	Move to downtown Oakland	261

As the Labor Council report points out, 62% of the respondents either live in San Francisco or in Marin County or the Peninsula nearby, and there is no public transportation system connecting those areas directly to Oakland. Not surprisingly, then, 65% of respondents indicate a preference for remaining in San Francisco, and 61% responded that moving their jobs to Oakland would "be inconvenient and create a hardship." Although the Council survey was conducted so as to permit employee anonymity, more than 300 chose to add their names and addresses. Many added written comments expressing the reasons for their strong opposition to any movement of their jobs to Oakland.

These comments reflect strongly held views that relocation would cause them to (a) quit their federal jobs; (b) face a nearly impossible commuting situation; (c) experience a great increase in transportation costs; and (d) cause them to reduce their work efficiency. In fact, to our knowledge, the GSA has made no calculation of the actual cost to the federal government of moving over 3,000 employees from San Francisco.

The City's concern over this impending job loss is not a new one, as I believe you know. The late Congresswoman Sala Burton had worked with this Subcommittee and with the GSA since 1985, not to deny a building to Oakland, but to protect against the loss of federal jobs from San Francisco. Her untimely illness and death perhaps led to a lack of continuity in our communications with you, Mr. Chairman, but our concern has been and continues to be sincere. Unfortunately, it has been extremely difficult to respond throughout the Appropriations process because the GSA has been less than forthright in responding to the City of San Francisco's requests for information. Last August, Congresswoman Burton met with GSA Regional Administrator Edwin Thomas and requested information regarding the residency of federal employees in the Bay Area. That information has never been forthcoming. More recently, on February 13, Congresswoman Barbara Boxer wrote GSA Administrator Terence Golden, requesting a variety of information. Again, to our knowledge, she has not received a written response. Most importantly, we have never been able to ascertain the answers to two very fundamental questions: (1) How many federal employees does the GSA propose to move from San Francisco to Oakland? GSA Administrator Golden recently indicated that 2,700 employees would be moved, although the GSA initially suggested a minimal relocation and, as I mentioned earlier, the GSA's own formula suggests a higher number; and (2) Which federal agencies, or portions thereof, does the GSA propose to move to Oakland?

In addition to the personal costs, it seems clear that certain affected federal offices should remain in San Francisco for efficiency reasons: The IRS, for example, leased 160,000 square feet of office space last year in a new San Francisco office building, Van Ness Plaza, and should remain in San Francisco to be close to the City's financial and business center.

I want to thank you, Mr. Chairman, for asking the General Accounting Office (GAO) to seek answers to these and other questions regarding the proposed Oakland building. Without these answers, it is impossible to assess the true impact of the GSA plan on San Francisco.

SPACE IN SAN FRANCISCO

We believe that most of the federal employees occupying leased space in San Francisco could comfortably and economically be rehoused here were GSA to conduct a competitive procurement process aimed at purchasing or lease/purchasing an office building in San Francisco. Outlined below are three such options: the first an existing building; the second a building now under construction; and the third a site for which a new building is planned. Each of the three includes or will include large individual floor plates (greater than 40,000 square feet), is located close to public transportation, and could be purchased outright by the GSA.

1. One South Van Ness Avenue

SIZE:	472,761 useable square feet
FLOOR PLATE:	60,000 + square feet
PURCHASE PRICE:	$60 million
GROSS COST PER SQUARE FOOT:	$126.91
PARKING:	271 spaces
OWNER:	Bank of America

COMMENTS: This Van Ness and Market Street 8-story building formerly housed a Bank of America data processing center and, as such, includes the large floor-plate layout favored by the GSA for most federal buildings. It is located on the corner of a major transportation hub, one block from City Hall, with virtual on-site access to several bus lines, the City's municipal railway system, and the Bay Area Rapid Transit (BART) system. As an existing building, its purchase price is far less expensive than the cost of constructing a new building, even allowing for

significant renovation and upgrading work. Assuming one employee for every 137 square feet of space, the facility could house 3,450 employees.

2. Rincon Square

SIZE:	682,877 useable square feet
FLOOR PLATE:	35,000 - 80,000 square feet
PURCHASE PRICE:	$129 million
COST PER SQUARE FOOT:	$186.45
OWNER:	Marathon U.S. Realties, Inc.

COMMENTS: Now under construction, this building will become San Francisco's largest and best-equipped office building for large floor-plate users upon its completion in 1988. The owners submitted a proposal in May of 1985 to sell the building to the GSA, in response to a public advertisement by the GSA expressing interest in purchasing a San Francisco office building. The building is located within 3 blocks of mass transit serving the entire Bay Area, and is particularly accessible to commuters from the East Bay and the Peninsula.

The Rincon Square building has been the subject of a cost analysis by the Kenneth Leventhal Co. and a response to that analysis by the GSA. A detailed response to the GSA analysis is included at the end of this statement. I would like to direct the Subcommittee's attention to that response, because some of the premises advanced by the GSA suggest that no building in San Francisco could ever be cost-effective to purchase, an assumption that is patently wrong.

I would like for the moment to cite just three instances in which the GSA's analysis seems terribly misguided:

1. Although an independent space analyst concluded that Rincon Square will contain over 682,000 square feet of useable office space, the GSA arbitrarily — pronounces that the figure is really 585,000. As is the case throughout its analysis, no figures or justification are provided to support that contention.

2. The GSA study calculates a present value reversion amount of $35,217,000 for the Oakland property, and $27,933,000 for the San Francisco property. In essence, the GSA has decided that property in downtown Oakland could be significantly more valuable than property in San Francisco in 30 years. On what basis?

3. An $18 million "quality" adjustment was added to the cost of the San Francisco property in the GSA study. Again, no justification is given for this figure, which at best is a subjective calculation.

I raise these issues, Mr. Chairman, because if one were to accept the GSA analysis outright, one could conclude that <u>any</u> San Francisco property is a questionable investment. As any real estate professional or leasing agent would confirm, that is a preposterous and misleading assumption. I know that the GAO analysis will cover these cost issues, and I am hopeful that it will provide a proper context for assessing them.

3. <u>VAN NESS PLAZA III</u>

SIZE:	399,800 useable square feet
FLOOR PLATE:	42,000 - 53,000 square feet
PURCHASE PRICE:	$61 million
COST PER SQUARE FOOT:	$152
PARKING:	373 stalls
OWNER:	Deringer Development Co.

COMMENTS: This development is proposed for a site adjacent to a recently completed office building by the same owner in which the GSA signed a lease for 160,000 square feet last year for the IRS. A full environmental impact report has been completed for the proposal, and the owner is applying for a building permit from the City. If the GSA were to purchase the site, or more likely, follow the Oakland model and exercise a lease/purchase agreement under which the building would be privately constructed, the building could be made available to the GSA at $61 million, or slightly over $150.00 per square foot of useable space.

This compares favorably with the Oakland model, estimated by the GSA to cost $201.47 per square foot of useable space, partly because the building's large floor plates and compact design can be built more economically and the building proposed would be 90% office-efficient, vs. 75% for the Oakland building.

Like the One South Van Ness Avenue building, this site is directly in the federal building "corridor" in San Francisco's Civic Center area, has excellent access to all forms of public transit, and is situated immediately adjacent to the offices of the IRS, one of the federal government's major users of space in San Francisco.

These sites offer 3 options in which the GSA could economically rehouse San Francisco federal workers in San Francisco. They demonstrate that a competitive procurement process in San Francisco will yield a long-term solution to the federal government's need for secure, affordable space. It is also important to point out that the current softness in the commercial office space market in downtown San Francisco makes this the best possible time to purchase office space. Indeed, GSA's own statements in its February,

1987 study reinforce this. The average cost of leased space in San Francisco today (and, in turn, the cost of acquiring space) is at what is generally regarded to be an historic low, creating a unique opportunity for the government to save millions of taxpayer dollars.

It is in this spirit that I reiterate my position: I ask this Subcommittee to act in the interests of economy, efficiency of federal agency operations, and sensitivity to the needs of federal workers, and require the GSA to proceed to seek a building or site for purchase in San Francisco for a new federal building. I am confident that a cost-effective scheme utilizing the lease/purchase financing proposed by Oakland can be arranged. I believe a solution can be crafted that is fair to both the City of Oakland and to the federal employees who work in San Francisco.

I thank you for the opportunity to testify today, and would be happy to answer any questions.

STATEMENT OF JIM GONZALEZ

Mr. Chairman, members of the Subcommittee, I want to thank you for the opportunity to offer testimony on an issue affecting thousands of federal employees throughout the Bay Area, and an issue which will impact every federal taxpayer.

As Co-chair of the San Francisco Committee to Retain Jobs and Businesses, I urge you to accept the wise recommendation of Mayor Dianne Feinstein that this subcommittee endorse the purchase, or lease purchase, of a building in San Francisco which will accommodate a majority of federal workers now occupying leased space in the City of San Francisco.

By supporting this option, federal workers and the taxpayers' best interest are served. This option will result in better regional cooperation and save money which should be wisely spent elsewhere.

Senator DeConcini and members, we need you to convey to General Services Administration, Administrator Terence C. Golden, the guiding principle that

the acquisition of additional government-owned space must be done in a manner that assures the least disruption of federal workers, preserves local economies and the promotes greatest savings to the federal budget.

In 1985, at the urging of the late Congresswoman Sala Burton, Congress prohibited moving all federal jobs out of San Francisco and into the new federal building planned for Oakland. This policy is totally consistent with Federal Property Management Regulations which give priority to the acquisition of existing privately owned buildings over the construction of new buildings. This policy also makes perfect economic sense. It does not in any way jeopardize plans to build a new federal office building in Oakland. Nor does it constitute a disruptive and fiscally unjustifiable impact on federal workers and on taxpayers.

Not more than ten weeks ago, my colleague on the San Francisco Board of Supervisors, Carol Ruth Silver, came to Washington to present testimony before the Senate Banking Committee on the threatened hostile take-over of Bank of America by a large Los Angeles-based banking institution. As Chair of the Committee to Retain Jobs and Business in the San Francisco Bay Area, Supervisor Silver represented an ad-hoc community committee comprised of scores of concerned business and neighborhood leaders. These citizens, from every sector of San Francisco's economy, felt the urgent necessity of defending and preserving one of our largest corporate employers to ensure the livelihood of thousands of San Francisco families.

The support of the community was heard; and the take-over threat has ended for the time being. However, despite this remarkable success, a climate of fear -- resulting from recent corporate merger-mania -- continues to permeate every level of our local workforce.

Today, again, our City faces the fear of another economic disaster: the unnecessary disruption and the removal of as many as 3,500 federal jobs from San Francisco. Many budgetary reasons can be cited to justify these disruptions. However, these justifications cannot lessen the bitter economic damage which will be suffered if you allow these 3,500 jobs to be removed.

Unlike corporate merger-mania, where market forces often promote painful economic disruptions, the consolidation of most federal employees out of San Francisco and into Oakland will essentially be a government-sponsored raid on San Francisco's economy. There is nothing which can justify such a raw exercise of power at the expense of our federal workers and our taxpayers.

In making your decision, I urge you to adopt a national perspective. This is not a provincial battle between Oakland and San Francisco. This is a test of our common desire to deal with difficult economic times in a fair and equitable manner. If we allow General Services Administration to proceed with the proposed federal job relocations in San Francisco and Oakland, without it first considering the impact on local economies, perhaps similar dislocations will occur in Phoenix or in Milwaukee, or in Baltimore or in Albuquerque or in New York City.

In conclusion, Mr. Chairman, members of this subcommittee, this is a rare opportunity to save money and achieve a fair and equitable resolution in which all concerned will benefit.

I respectfully urge you to adopt a policy towards federal office space in San Francisco which will preserve jobs, prevent dislocations and save money.

Please accept the recommendation that the General Services Administration purchase or lease purchase a building in San Francisco to accommodate our federal workers.

Thank you very much.

Mayor FEINSTEIN. Thank you very much, Mr. Chairman. I would be pleased to do that. On my left is supervisor Jim Gonzalez representing the board of supervisors, the legislative body of the city and county of San Francisco. On my immediate right is Mr. Henry Morris, president of the San Francisco Downtown Association and representing the San Francisco Chamber of Commerce. On his immediate right is Mr. Stan Smith, the head of the San Francisco Building and Construction Trades Council and representing the Labor Council of the AFL–CIO here this morning.

Mr. Chairman, I appreciate very much the opportunity to summarize my remarks and I will do that. San Francisco does not oppose a Federal building in Oakland. We would be very pleased to see Oakland have a Federal building.

What we do oppose is a Federal building so large that the only way to fill it is to take 3,500 to 3,800 workers from San Francisco. Just as UDAG, Mr. Chairman, does not permit a grant to be offered if it is going to move employees from one city to another, we do not think the Federal Government should be taking jobs from one city to the other.

We do appreciate the fact that Oakland became involved in the early 1980's. We would like to explain to you the situation in context at that time.

It is true that in 1981 I signed a letter which effectively enabled the sale of a piece of property at 49 Fourth Street. That property was a GSA building. That property had not been inhabited for at least a decade and probably more. It was blighted and it was empty.

At the time, Mr. Chairman, there were no plans for any Federal building in San Francisco. At that time, before I signed the letter I came back and visited Congressman Burton and asked Congressman Burton if he felt that by signing a letter I would jeopardize the possibility of a future Federal building, and he indicated to me, when there is money for a Federal building I will get one for San Francisco.

Consequently, it was impossible to trade the building because there was nothing to trade it for. San Francisco at the time had a 1-percent commercial vacancy factor. We had no land that we could trade for that building. Also, at the time lease revenue procedures—lease backs—were not approved by OMB, and so I signed the letter, but I signed it in the context of that framework of circumstances.

That land itself was right in the middle of a parcel that was needed to build the convention hotel for the convention center and it was the last parcel needed to close out the project.

Subsequent to that time, Mr. Chairman, it became known to us that we may lose a number of our employees through Oakland's Federal Building. Obviously, any mayor is going to fight for their jobs, and this mayor is going to fight for her city's jobs just as I would expect any other mayor to do so.

This morning we would present to you in my testimony a few things. One is a Labor Council letter which explains what the questionnaire is and what the questionnaire is not.

[The information follows:]

LETTER FROM WALTER L. JOHNSON, SECRETARY-TREASURER, SAN FRANCISCO LABOR COUNCIL, AFL-CIO

MARCH 27, 1987.

Hon. DIANNE FEINSTEIN,
Mayor, City of San Francisco,
San Francisco, CA

DEAR MAYOR FEINSTEIN: During the past few weeks the San Francisco Labor Council participated in the circulation of a questionnaire designed to ascertain certain facts and opinions of Federal employees who work in leased office space in San Francisco.

The reason for the circulation of the questionnaire is the plan of the General Services Administration to move more than 3,000 Federal employees who now work in GSA leased space in San Francisco to a GSA proposed office building in Oakland. Naturally, we oppose moving working people out of San Francisco, especially when we can accommodate all needs and desires within our own city boundaries.

A total of 6,168 Federal employees work in GSA leased space at 22 different locations in San Francisco. A total of 4,789 such employees work at five of these locations, or 77.6 percent of the total. We decide to concentrate the circulation of the questionnaire at these five locations: 211 Main Street, 215 Fremont Street, 525 Market Street, 100 Van Ness Avenue, and 1650 Mission Street, our effort was not designed to enter any sort of Federal office employees olympics. We simply were of the opinion that the involved workers should have some say as to their work place.

A team of three people circulated the questionnaires at the entrances of each of the five locations at times when it was known that Federal employees were arriving for work or leaving from work. A total of approximately 2,900 of the questionnaires were circulated to Federal employees at the five locations.

Our receipt of completed questionnaires took place in two ways: (1) return of completed questionnaires by mail (a total of 431 completed questionnaires); and (2) questionnaires filled out by Federal employees at five circulation sites (a total of 403 completed questionnaires). A total of 834 completed questionnaires. Since 4,789 Federal employees work in offices at the five circulation sites the 834 returned questionnaires which we received was a 17.4-percent return of the total, or a 28.9-percent return of the total number of questionnaires circulated (both high rates of return for this type of survey). We believe that on the basis of this rate of questionnaires can be projected as representing closely what would have been the result of a 100-percent return.

The question-by-question statistical results of the total of the completed and returned questionnaires are set forth in the enclosed enumeration of questionnaire answers. The following, I believe, are the major questions, together with an enumeration of their answers:

Question 1. I currently live:

(a) In San Francisco	350
(b) In Marin County	75
(c) On the peninsula	91
(d) In the east bay	318

Question 9. Moving my job to Oakland would:

(a) Be inconvenient and create a hardship	510
(b) Make no difference to me	57
(c) Be more convenient for me	266

Question 10. I prefer that my job:

(a) Remain in its current location in San Francisco	538
(b) Move to downtown Oakland	261

Since there is no public transportation that connects Marin County and the peninsula directly to Oakland, making such a commute almost impossibly costly and time consuming, those who live in those areas should be added to the total of the Federal employees who report living in San Francisco, for a total of 517, as compared with a total of 318 Federal employees who report living in the east bay. The percentages then become San Francisco-Marin-peninsula (west bay), 62 percent and east bay 38 percent.

We hope that our action in circulating this questionnaire will shed needed light on the entire question. We also hope our action has been helpful in the endeavor to keep Federal employees on their jobs in San Francisco.

Sincerely,

WALTER L. JOHNSON,
Secretary-Treasurer.

SUMMARY OF QUESTIONNAIRE ANSWERS

FEDERAL EMPLOYEES YOUR JOB COULD BE MOVED TO OAKLAND!

The General Services Administration [GSA] is planning to build a large, new Federal office building in Oakland. The design for it has been started. The GSA plans to move more than 3,000 Federal employees from their jobs in San Francisco to this Oakland building. A strong possibility exists that you could be forced to move to Oakland!

It's only fair that the working people who are directly and personally affected by this job relocation possibility have a say in the decisionmaking process. Your opinion is important! Please take a moment to make your feelings known by filling out and returning this questionnaire.

1. I currently live:
   - a. In San Francisco 350
   - b. In Marin County 75
   - c. On the peninsula 91
   - d. In the east bay 318
   - West bay 516
   - East bay 318

2. My work place is currently located at (street address) 211 Main Street (333); 215 Fremont Street, (178); 525 Market Street (123); 100 Van Ness Ave. (137); 1650 Mission Street, (66).

3. The distance from my home to my work place is:
   - a. less than 3 miles 122
   - b. 3 to 5 miles 61
   - c. 5 to 10 miles 139
   - d. 10 to 15 miles 73
   - e. 15 to 20 miles 68
   - f. more than 20 miles 137

4. The distance from my home to downtown Oakland is:
   - a. less than 3 miles 27
   - b. 3 to 5 miles 30
   - c. 5 to 10 miles 62
   - d. 10 to 15 miles 97
   - e. 15 to 20 miles 115
   - f. more than 20 miles 167

5. The travel time from my home to my current work place averages:
   - a. less than 10 minutes 18
   - b. 10 to 20 minutes 93
   - c. 20 to 30 minutes 102
   - d. 30 to 40 minutes 115
   - e. 40 minutes or more 197

6. I estimate that the travel time from my home to downtown Oakland would be:
   - a. less than 10 minutes 22
   - b. 10 to 20 minutes 50
   - c. 20 to 30 minutes 116
   - d. 30 to 40 minutes 88
   - e. 40 minutes or more 261

7. I most often travel to work in the following way:
   a. on foot 27
   b. by public transportation 358
   c. in a car pool 60
   d. by myself in a private vehicle 53
8. I would most often travel to work in downtown Oakland in the following way:
   a. on foot 6
   b. by public transportation 313
   c. in a car pool 32
   d. by myself in a private vehicle 143
9. Moving my job to Oakland would:
   a. be inconvenient and create a hardship for me 510
   b. make no difference to me 57
   c. be more convenient for me 266
10. I prefer that my job:
   a. remain in its current location in San Francisco location 538
   b. move to downtown Oakland 261
   c. move to another area. (Please specify (26 answers, scattered all over)).

Total questionnaires circulated: Approximately 2,900.

Total questionnaires completed and received: By mail, 431; at the sites, 403; for a total of 834.

Mayor FEINSTEIN. That labor council letter points out that it is simply a questionnaire of five workplaces in San Francisco; 211 Main, 215 Fremont, 525 Market, 100 Van Ness, and 1650 Mission Street. The total employees surveyed were not 20,000 but were 4,789. From that certain conclusions are drawn.

The conclusions are that 62 percent of these employees live in the west bay—that is the peninsula, San Francisco and Marin—and about 38 percent live in the east bay. Then the conclusion is drawn from the questionnaire that about 65 percent of the employees polled in the questionnaire do not want to move. And there is a reason.

The west bay employees, both north and south of San Francisco, have greatly increased commute times, and we will submit those commute times to you in writing, and they will not be our analysis but they will be the Metropolitan Transportation Commission's analysis. We have those here and I think they demonstrate an increased time.

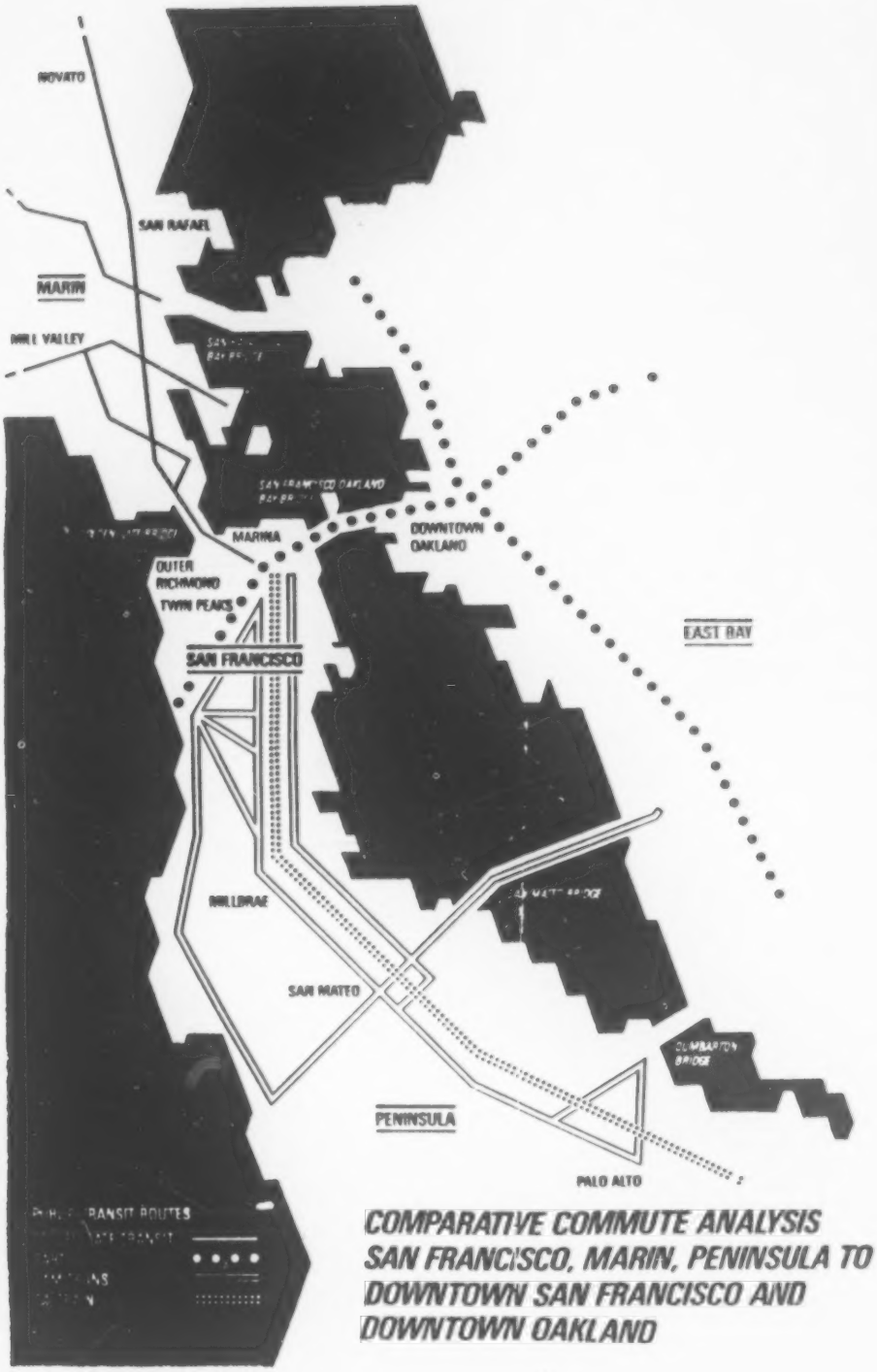
Finally, Mr. Chairman, we are submitting three buildings which we believe are cost effective for the Federal building. We are submitting a building that is built, a building that is in the process of being built, and a building that is yet tobe built. All three are willing to donate their land.

The building in the process of being built, which is Rincon Point, last night indicated to me that they are willing to donate the land that they paid $6.7 million for in 1981. That is a hard cost. The building is under construction, so their figures are hard costs.

We would also submit to you, Mr. Chairman, their response to the GSA analysis and an additional appendix on the major differences between the GSA study and the Leventhal & Co. study.

Senator DECONCINI. Without objection we will have all of those as part of the record.

[The information follows:]



COMPARATIVE COMMUTE ANALYSIS SAN FRANCISCO, MARIN, PENINSULA TO DOWNTOWN SAN FRANCISCO AND DOWNTOWN OAKLAND

COMMUTE BY PUBLIC TRANSPORTATION TO DOWNTOWN SAN FRANCISCO AND TO DOWNTOWN OAKLAND

	Portal to portal minutes to—		Monthly cost to [1]—	
	San Francisco	Oakland	San Francisco	Oakland
From Marin County:				
Mill Valley	37	62	$33.20	$95.20
San Rafael	59	73	39.60	101.60
Novato	88	117	45.90	107.90
From San Francisco:				
Outer Richmond	35	58	23.00	85.00
Twin Peaks	27	48	23.00	85.00
Marina	17	77	23.00	85.00
Peninsula:				
Millbrae	45	67	42.20	104.20
San Mateo	53	70	49.25	111.25
Palo Alto	72	94	63.25	125.25

[1] Calculated on the basis of the monthly commute rates of the various public transportation facilities.

COMMUTE BY PRIVATE VEHICLE TO DOWNTOWN SAN FRANCISCO AND TO DOWNTOWN OAKLAND

	Round trip mileage to—		Monthly round trip costs including bridge tolls [1]—	
	San Francisco	Oakland	San Francisco	Oakland
From Marin County:				
Mill Valley	29.0	52.4	$101.20	$184.72
San Rafael	38.2	46.0	126.96	166.80
Novato	59.0	66.6	185.20	224.48
From San Francisco:				
Outer Richmond	10.8	32.6	30.24	109.28
Twin Peaks	8.8	27.4	26.64	94.72
Marina	5.6	26.6	15.68	92.48
Peninsula:				
Millbrae	31.4	48.8	87.92	154.64
San Mateo	38.2	55.6	106.96	173.68
Palo Alto	65.8	84.4	184.24	254.32

[1] Calculated on 20 round trips per month at 14 cents per mile. Golden Gate Bridge toll, $20 per 20 trip commute book; San Francisco-Oakland Bay Bridge toll, $18 per month.

SOURCE: San Francisco Bay Area Metropolitan Transportation Commission.

II. QUALITATIVE COMPARISON

The following comments are related to the qualitative comparison of the Oakland building with Rincon Square.

With reference to the second paragraph, Rincon Square also has been designed to emphasize long term ownership and efficiency of operation and maintenance. Marathon's history shows that all buildings have been designed this way, because Marathon holds developed product for a long time if not forever.

On the structural design, Rincon Square is constructed of poured in place concrete, as well as architectural precasts concrete. Only some beams are of prestressed concrete. Rincon Square was designed in accordance with the seismic guidelines of the San Francisco building code and was further studied by Earthquake Engineers (EQE). The building design was further modified with additional steel and changes to expansion joints per the recommendation of EQE. EQE has advised that unless both structural designs are studied independently, a proper comparison of steel verses concrete cannot be achieved. EQE also indicates that there are advantages to both steel and concrete buildings. However, concrete buildings tend to be stiffer and tend to move less during earthquakes and usually have less non-structural type damage than a steel building because of the ductal nature of steel.

With reference to the additional plenum in the Oakland building, which allegedly allows for expansion of the mechanical and electrical systems in the future, Rincon Square is a future-proofed building whereby increased power and cooling is available, capable of accommodating a personal computer at every work station. That is flexibility.

Rincon Square does not have under floor ducting nor do the telecommunications and electrical monuments require core drilling. The preset can is simply popped-open with a hammer. A combination of preset up-feed locations and some additional core drilling (through 5 1/2" concrete floor) prior to initial occupancy could accommodate just about every conceivable furniture lay-out. By using a universal wiring system, as the GSA intends to do, frequent federal agency moves could easily be accommodated at a central panel board, either with our system or with a raised floor.

Rincon Square can be easily modified to include a 450 seat auditorium, as well as a 3,322 sq. ft. firing range, including the special ventilation.

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The reference to Rincon Square's layout efficiency being reduced by perimeter angularity is ridiculous. Ostgren Associates have done test layouts that show the floors of Rincon Square to layout to the optimal GSA standard of 122 sq. ft. per person.

On the subject of Proposition M, the GSA is in error in concluding that development will be slow in the area of Rincon Square over the next fifteen years, because that is the prescribed area of growth according to the City's Downtown Plan.

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Building Features
Rincon Square

Public Transportation:

It should be noted Rincon Square is three blocks from BART and Muni metro (an approximate distance of 4/10ths of a mile). Golden Gate Transit and Muni bus service are available at the door. SamTrans buses from the Peninsula enter the City along 2nd, and stop less than two blocks away from

the door. The Southern Pacific train station and the Ferry Building are easily accessed from Rincon Square.

Aesthetics

The building design is anything but typical of a commercial building, with all the different elevations and set-backs providing 30,000 sq. ft. of landscaped terraces, and the two buildings surrounding a lushly landscaped plaza area.

Construction
(see note above)

Construction of poured in place concrete with only the interior beams being prestressed concrete.

Occupiable Square Footage

680,000 sq. ft. (approximate)

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Basement

The two separate loading docks are at the street level and not at the basement. They provide more than adequate delivery docks for four trucks and eight delivery vans.

Elevators

Elevators for Rincon Square were designed for a 28 second interval. This criteria is at or above the industry standard.

NOTE: The Oakland building probably has low and high rise elevators and it appears as though they have not decided on the number they would require.

Building Systems

Rincon's system is state of the art (Johnson Control JC85 system) and is completely automated.

Fire/Life Safety - The building is built to the latest fire/life safety standards. The smoke exhaust system is by fan, whereby in the fire mode and under the emergency power control, the main fans continue to operate as smoke control fans on the fire floor suppling and exhausting air. Floors above and below are pressurized. The mechanical system is not shut down.

Electrical - There is no under floor ducting in Rincon Square. Core drilling is not required for the installation of monuments.

Mechanical - Rincon Square has a central system which guarantees less maintenance and less disturbance to the tenants on each floor. Furthermore, mechanical rooms at every floor tend to be noisy and require special acoustic treatment and reduce the usable space. As referenced elsewhere, the use of the plenum as a return air in Rincon Square, is common, acceptable practice, especially in a building with a concrete frame. This plenum system also provides more flexibility to the tenant. As a side note, the proposed duct return system for the Oakland building is subject to more duct leaks and more above ceiling problems and maintenance because of the increase in duct volume.

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Security

Large plaza is secured by high intensity TV camera. The plaza is designed for the inhabitants of the building. The multi-leveled grass terraces and other seating areas around the pool and the fountain, are considered an amenity. We believe most of the crowd will be these inhabitants of the building, having lunch on the plaza. Riot control could be a problem anywhere, including the proposed Oakland building.

The freeway is only near the building at one location. Most of the ramps are bus ramps or access ramps to the freeway. Space planning and programming will direct so-called vulnerable agencies to other locations in the building.

Telecommunication

Again, there is no under-floor ducting and core drilling is not required for the monuments.

The building is more than capable of accommodating a public or private telephone switch system, with additional vertical or horizontal sleeving and conduiting to the micro wave roof location already built in.

Auditorium and Firing Range (see note above)

Layout (see note above)

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Budget costs included in the Oakland building and not available at Rincon Square:

Generally, the GSA has compared their wish list specification for the Oakland building against a specific Rincon Square building which is under construction. It is not appropriate to compare an outline specification against a known hard cost. The equitable way would be to price out the entire Oakland building to determine the total construction costs and compare that against Rincon's total construction cost.

Item 1. Raised floor - Rincon Square can accommodate a five or six inch raised floor system which the federal government is currently considering across the country.

Item 2, 3, and 4 are not required at Rincon because the floor to floor height need not be modified.

Item 6. Two additional freight elevators are not required. (See notes above)

Item 7. Adequate loading dock provided in Rincon Square.

Item 8. There is no advantage to having a return duct in lieu of a plenum in the mechanical system.

Item 10. Building management system - Rincon Square's system is a more than adequate automated system, which can be inexpensively modified to meet any needs of the GSA.

Item 12. Rincon's security system is more than adequate, and it is not likely that an extra $1 million would be required to upgrade it to the government system.

Item 13. Additional lighting controls can be achieved as an add-on to the current Westinghouse system at a minimal cost.

Item 14. Uniform or universal wiring system - this system is an advantage to either building and as described earlier in the memo, could preclude the requirements of a raised floor.

Item 15. Auditorium and firing range. (See notes above)

APPENDIX

MAJOR DIFFERENCES BETWEEN GSA STUDY AND KENNETH LEVENTHAL & CO. STUDY

I. COST COMPARISON

The following items are the major differences between the "Comparison of the Oakland Federal Building with Purchase of Rincon Square" attached to the March 12, 1987 letter from Terance C. Golden to Mayor Feinstein ("GSA Study") and the "Comparative Cost Analysis of Office Space for the General Services Administration" prepared for the City of San Francisco by Kenneth Leventhal & Company ("KL&CO Study").

Although the GSA study results were achieved utilizing OMB Circular A-104 methodology, no base amounts or underlying assumptions were provided in the study. Without this base information, it is not possible to critique or understand the results of the study. Information lacking in the GSA study includes the construction costs of the Oakland property and the timing of expenses, the annual inflation rate used in computing leasing costs and the interim housing square footage and the time periods required. Those are just a few examples of the detailed data required to equitably compare the two studies.

These are highlights of some major differences between the two studies:

o SQUARE FOOTAGE OF RINCON SQUARE PROPERTY

KL&CO was provided with an original estimate of occupiable square footage of the San Francisco property, measured by an independent space planning firm using current GSA methodology. Those figures are shown below with the figures used by GSA in their computations:

	KL&CO Study (OSF)	GSA Study
Oakland Property	747,500	747,500
San Francisco Property	682,877	585,000
	64,623	162,500

The difference, an additional 97,877 OSF, impacts the cost of interim leasing, the cost of leasing excess space and the cost of acquisition of the additional space. No explanation is given by the GSA to explain its conclusion.

o PURCHASE OF ADDITIONAL SPACE VS. LEASING ADDITIONAL SPACE

The GSA study assumes that the square footage difference between the two properties would not be purchased, but would be leased over the 30 year lifetime of the analysis. To compare the two properties on an equitable basis, the KL&CO study assumed that the square footage difference would be purchased for the same per square foot price as the San Francisco property.

o OCCUPANCY DATES

The GSA study assumes occupancy dates of October 1990 for the Oakland property and a phased occupancy beginning in December 1987 for the San Francisco property. The KL&CO study assumes various occupancy dates ranging from January 1991 to January 1993 for the Oakland property and a total occupancy date of January 1988 for the San Francisco property. The San Francisco property is nearing completion, allowing the occupancy date to be estimated with more certainty than the Oakland property, on which construction has not yet begun.

o REVERSION AT END OF LIFETIME

The GSA study includes present value reversion amounts of $35,217,000 for the Oakland property and $27,933,000 for the San Francisco property. No basis was provided in the study for these amounts. As mentioned in the "factors not considered" listing in the KL&CO study, any land, building or other value remaining at the end of the thirty year period was not studied or taken into account in preparing the analysis.

o LAND, PROPERTY TAXES AND INSURANCE

Land value, property taxes and insurance costs were included in the GSA study. As the Oakland property site was provided by the City of Oakland, the Government does not pay real estate taxes, and the Government is self-insuring, these costs are not cash outlays. The amount deducted from the results to account for these non-cost items was $4,289,000 different from the amount added to the calculation. The difference is not explained in the GSA study.

o OTHER COSTS

Property management costs, services and utilities, major R&A and tenant alterations and maintenance costs were added into the GSA analysis. The basis for these amounts was not provided in the GSA study. As listed in the "factors not considered" in the KL&CO study, building operating costs, including utilities, insurance services, property management, repairs and maintenance and other costs were not studied or taken into account in preparing the analysis.

o QUALITATIVE COMPARISON

An $18,000,000 "quality" adjustment was added to the cost of the San Francisco property in the GSA study. Although a breakdown was provided in the GSA study, no support is given for the basis of each item. As noted in the KL&CO study, an assumption was made that the two properties were comparable in quality.

o VALUE OF EXCESS PARKING

Both studies agreed that the Oakland property had 150 parking spaces available, and that the San Francisco property had 360 parking spaces. The present values of the net income shown in each study are shown:

	San Francisco Property
GSA Study	$2,418,000
KL&CO Study	$1,680,000

The net parking income for the San Francisco property was computed by KL&CO using current market revenues and expenses at comparable parking concession in the subject property market area.

o INTERIM HOUSING COSTS

The interim housing costs, as computed in the GSA study, were much higher than comparable costs in the KL&CO study. No explanation was provided in the GSA study to allow comparisons of square footage required or time periods in which interim housing would be required. The KL&CO calculations are shown in Exhibits 5 and 6 of the study, and are based on actual current GSA leases in the San Francisco Bay area.

o DEBT SERVICE

The costs of acquisition of the two properties are not the same in both studies. The KL&CO study of acquisition costs for the Oakland property were computed by allocating the estimated construction costs and the management and inspection costs of 30% in 1988, 50% in 1989 and the remaining 20% in 1990. The design and review cost was allocated in total for 1987. The present value of the costs was then computed at an 8% discount rate. The computational methodology and the base costs used in the GSA study are unknown.

Mayor FEINSTEIN. Thank you very much.

I understand that you are going to have the GAO look into these, and we would appreciate that very much.

Mr. Chairman, all of these buildings have a gross per square foot cost of anywhere from $129 to $179 per square foot. They are large floor-plate buildings. They are the only three large floor-plate buildings available in San Francisco that we know of. The floor-plates are in addition to 40,000 square feet.

They are particularly built to minimize costs. One of the buildings, the Bank of America Computer Building at Van Ness and Market can be purchased, we believe, at a very good price, or leased back on very good terms. It would need some remodeling because it is essentially a computer center, but once remodeled it has the square footage for 3,500 employees.

The second building is part of the Deringer project known as South Van Ness. GSA already leases 190,000 square feet of space in that building complex for the IRS. This is a proposed new building that would be built along GSA standards.

The developer is prepared to donate the land to the city. The city would then donate the land to GSA and the Federal Government would be able to lease it back in a similar function. That could accommodate approximately 3,000 employees.

Essentially what our goal is, since the Federal Government is today looking at lease-backs—as you know, they were not acceptable to OMB in 1981—we believe that we can enter into a very competitive lease-back with donated land, land donated by a private owner, at this particular point in time.

We have presented these to you. Our goal is a simple one. We just do not want to lose the jobs. Those are jobs that are in San Francisco.

There are 3,500 jobs, and to proceed with the gargantuan building in Oakland that would drain 3,500 jobs from San Francisco would be the largest movement of Federal employees in the history of this Nation.

Needless to say, I am going to fight to prevent that from happening.

Thank you very much.

Senator DECONCINI. Mayor, thank you very much. Because of time, I am going to have to ask everyone else to submit a statement.

Let me assure you mayor we take this very seriously. I want the record to show that as far as this member is concerned we are going to move ahead on a Federal building in Oakland because of the need in the Oakland area.

Mayor FEINSTEIN. We understand that.

Senator DECONCINI. We are not interested in disrupting 3,000, 10,000, or even 2 Federal employees in the city of San Francisco, and we are going to carefully consider that poll, the survey you have done, and the arguments that you have made here. Even with my limited knowledge of the bay area, and the fact that you have so many Federal employees, programs, and district offices there, I believe that those communities need not be rivals as to where Federal employees are located.

It is my own judgment, at this time, that there is ample justification for complexes in both cities and we are prepared to work with you. But I do not want you to leave here thinking that we are not going to move ahead with a Federal building in Oakland. We are. It is whether or not we can—and I think we can—accommodate your concerns without disrupting a whole mass of Federal employees in your city.

Mayor FEINSTEIN. That is our interest and we thank you very much for that.

Senator DECONCINI. Thank you very much.

Mayor FEINSTEIN. Thank you, Mr. Chairman.

Senator DECONCINI. The last witness that I am going to be able to hear from today is Mr. Grant Mack, the National Industries for the Blind. If you would like to come forward at this time. I am very delighted to have my colleague and friend from Utah, Senator Orrin Hatch, who has chaired numerous committees in the Senate, including the Labor and Human Services Committee. Senator Hatch has demonstrated leadership in the blind and other handicapped areas, and I want to welcome him here and he will make a brief introduction of Mr. Grant.

Then, Mr. Grant, we will ask that because of time, your full statement we will put in the record. If you could summarize it, I will be able to catch my airplane to Arizona.

Senator Hatch?

STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH

Senator HATCH. Thank you, Mr. Chairman.

I will not take very long, but I want to introduce a very good friend of mine and a very heroic and good person who I think is an example of born leadership in this country second to none.

Grant Mack, of course, has been on the board of directors of the National Industries for the Blind. He is president of the board of directors of the American Council for the Blind. He currently participates on the board of trustees for the American Foundation for the Blind and is a board member of the Affiliated Leadership League of and for the Blind.

He is an insurance broker. He has made his own way. His eyes gradually deteriorated until he became totally blind. He is a heroic figure. He really does a great job of advocating for the blind.

Mr. Chairman, I could not introduce a better person to you than my good friend Grant Mack. And Grant, I just want to welcome you to the Senate here. You are in good hands here with Senator DeConcini.

There is nobody that I have more confidence in than he in the Senate and I just want you to know it is a real privilege to be here and to be able to introduce you to my good friend Senator DeConcini and this committee.

Senator DECONCINI. Thank you, Senator Hatch.

Mr. Mack, please proceed.

STATEMENT OF GRANT MACK, NATIONAL INDUSTRIES FOR THE BLIND

Mr. MACK. I would like to thank my good Senator from Utah for that fine introduction. Except for a quirk of fate I suppose, you would be my representative in Congress, Senator. I was born and brought up in Arizona and went to school there.

Senator DECONCINI. I knew there was something terrific about you, not just great.

Mr. MACK. I went to school my first 2 years at Arizona State and following discharge from World War II I went to the University of Utah to finish school and my roots got so deep I just stayed.

Senator DECONCINI. Very good.

Mr. MACK. My family still lives in Arizona and I hope you do not miss that airplane because I was down there a couple of weeks ago and those orange blossoms are just wonderful right now.

Senator DECONCINI. Thank you.

Mr. MACK. I would like to speak for a few moments on behalf of, actually, the Committee for Purchase for the Blind and Other Severely Handicapped, which I will refer to after this as the committee. As you know, this was the committee that was established under the Wagner-O'Day Act in 1938 and later became known as the Javits-Wagner-O'Day Act.

The first central nonprofit agency appointed by that committee was the National Industries for the Blind and for almost 50 years it has been providing a fantastic service in developing a climate which has provided many, many jobs for blind people and also other severely handicapped. I guess the other central nonprofit agency is the National Industries for the Severely Handicapped [NISH].

The committee has done an outstanding job. Since 1979 the committee has functioned with a total number of 15 members and 12 em-

ployees. In 1979 they did about $70 million business with the Government. In 1986 that amount was almost $180 million, and it provided jobs for approximately 6,300 blind people in this country.

Now, when the committee was established it was intended to provide a market for the products that were being produced in mostly State and private owned workshops around the country. They were mostly a broom-making concern, and place mats that kind of thing.

Today there are about 1,300 items on the procurement list that have provided these many, many jobs. Last year the total number of jobs under both central nonprofit agencies was 16,000, and from one of the smallest Government agencies with a recommended budget this year under the President's budget of $825,000, it is probably one of the best buys the Government has made.

The whole program is a fantastic success story of Government and private organizations working together in a very successful program. I have visited workshops from Seattle to Puerto Rico and been in many of them. Many of the employees in these workshops are members of our organization, which, incidentally, the American Council of the Blind is the largest membership organization of blind people in this country.

For the past couple of years the committee has really been handicapped in performing its duties because of the harassing tactics of a small law firm here in Washington representing some former suppliers of Government products which have now been put on the procurement list. And through constant requests under the Freedom of Information Act and rulemaking requests the committee has really been hampered.

They, this past year, have not been able to do all of their work. Congress could really help this program if they would take the recommendation of NIB to increase the appropriation this year from $825,000 a modest $50,000 to $875,000. This would allow them the necessary personnel and time to continue with their good work.

Senator, I would like to also touch for a moment on an item that has been brought before this committee I think in the past, and that has been some criticism of the hiring practice of the central nonprofit agencies. The suggestion has been made that they do not have affirmative action and do not hire blind people.

I might just suggest that the kind of procedures that NIB is involved with requires highly qualified people with technical knowledge, knowledge in industrial engineering, in manufacturing research, business and finance, government procurement practices.

For many years NIB has had an affirmative action program and whenever a job opening is available now they first refer to 56 sources, including State and private rehabilitation agencies and consumer groups, but they have difficulty finding people with the qualifications.

That does not mean that blind people cannot do these jobs, but the blind people I know that are qualified to do the jobs they are asking them to do are not willing to relocate. They can do better by being a lawyer, doctor, an accountant, an insurance man, or businessman or

whatever. And it should not be assumed that all blind people who are qualified would necessarily want to work for a small nonprofit organization that deals primarily with blind people.

Again, I would request, respectively, that the committee consider seriously increasing the budget to $875,000 for this committee. Last year at a cost of less than $50 per person jobs were provided through this organization, 16,000 jobs.

Senator DECONCINI. Mr. Mack, I am sorry to have to bring you to a conclusion.

Mr. MACK. Fine.

Senator DECONCINI. Do you have a summary statement or anything you care to add to that? It is a good statement you have given. I have had a chance to review some of it here, and I am very aware of the National Industries and some of the fine work, production of items—ranging from food items and clothing—to garment hangers and also services that are provided, not only to disabled people but to all of us, and we are most indebted for your leadership.

Mr. MACK. Well, Mr. Chairman, I am interested in the 6,300 jobs that were out there last year for blind people and the 7,000 and more jobs that are targeted to be there in the future, and it can only happen if we maintain a strong committee for purchase.

PREPARED STATEMENT

Senator DECONCINI. I understand. Thank you very much, Mr. Mack, for your testimony. Your full statement will appear in the record and we appreciate your leadership and for your taking the time to be here today.

Mr. MACK. Thank you. Enjoy those orange blossoms.

[The statement follows:]

STATEMENT OF GRANT MACK

Good morning. My name is Grant Mack and it is a pleasure to have the opportunity to testify before Senator DeConcini and members of the Senate Appropriations Subcommittee on Treasury, Postal Service, and General Government.

I am here this morning on behalf of National Industries for the Blind (NIB), the central nonprofit agency which represents workshops for the blind under the Javits-Wagner-O'Day Act. As a private not-for-profit corporation, NIB is governed by a board of directors. I serve as one of twenty members on the NIB board. I am also the President of the board of directors of the American Council of the Blind (ACB), the largest national consumer organization of individuals who are blind. Many blind persons who are employed in workshops are members of this consumer organization. I have played a leadership role in the American Council of the blind for the past nine years.

My involvement in the field of blindness started in 1972 when I became a charter board member of the Utah Council of the Blind. Currently, I participate on the Board of Trustees of the American Foundation for the Blind and as a board member of the Affiliated Leadership League of and for the Blind. About twenty-one years ago my vision started to deteriorate slowly. I have been totally blind for the past eleven years. I am employed as an insurance broker, having been in the insurance business since 1948.

I would like to take this opportunity to discuss the Javits-Wagner-O'Day Act, the Committee for Purchase from the Blind and Other Severely Handicapped, and National Industries for the Blind. As you know, through a legislative initiative, the Wagner-O'Day Act (today known as the Javits-Wagner-O'Day (JWOD) Act) was passed by The Congress in 1938 to provide a market for commodities produced in agencies employing blind people. The intent of the legislation was to increase employment opportunities for a group of blind and multihandicapped blind persons, namely persons who were unable to integrate into competitive employment or for whom competitive

employment was simply unavailable or undesirable. The Committee for Purchase from the Blind and Other Severely Handicapped (CPBOSH) was created as the Federal agency to administer the Wagner-O'Day Act. CPBOSH is comprised of fifteen members and a staff of twelve persons. The primary role of CPBOSH is to determine the suitability of commodities and services for purchase by the government, to maintain a procurement list of commodities and services produced in qualified workshops under the program, to establish fair market prices for items on the procurement list, to assess workshop capability and capacity to produce an item and to analyze industry impact. CPBOSH plays a critical role in the success of the JWOD program and in the expansion of employment opportunities for blind and disabled persons through the addition of commodities and services to the procurement list and the subsequent creation of jobs.

Although CPBOSH is one of the smallest Federal agencies, its program provided employment opportunities for over 16,000 blind and severely handicapped persons during Fiscal Year 1986 (at a cost of less than $50.00 per person served during Fiscal Year 1986) through a program of Federal-private partnership. The JWOD program, funded almost entirely by the workshops themselves through self-generated income, has served several hundred thousand blind, multihandicapped blind and severely disabled persons since its inception with very little cost to the American taxpayer.

Although the number of full-time staff positions for CPBOSH has remained at twelve since 1979, the agency's workload has increased tremendously over the same period of time. Some of the added workload is due to the growth of the JWOD program. Much of this additional workload, however, is due to the persistent challenges of a small law firm representing a few previous competitive suppliers of commodities to the government. These continual challenges have diverted precious CPBOSH staff resources due to the law firm's numerous and constant requests under the Freedom of Information Act, petitions for rulemaking, and ongoing legal proceedings. The cumulative impact has meant less CPBOSH time devoted to meeting the goals of the JWOD Act, a slowing of the process of addition of commodities and services to the

procurement list and of pricing actions, an abbreviation of staff travel to workshops for monitoring qualifications and compliance, and a reduction in the number in CPBOSH committee meetings.

These challenges have undeniably curtailed the essence of the JWOD program in creating employment opportunities for blind and severely handicapped persons. One of the many ways in which Congress can help to alleviate this situation is by providing adequate funding to the Committee for Purchase from the Blind and Other Severely Handicapped to meet these challenges, while also continuing to fulfill its role and obligations under the JWOD Act. National Industries for the Blind urges that an appropriation of $875,000 be approved for CPBOSH for Fiscal Year 1988. This amount represents an increase of $50,000 over the $825,000 requested in the President's budget. NIB feels that the additional $50,000 could be used to expand CPBOSH's limited staff of twelve and to permit an adequate level of administration of the program.

One of the responsibilities of the Committee for Purchase from the Blind and Other Severely Handicapped is to designate a central nonprofit agency (CNA) to allocate government orders for commodities and services among qualified workshops. National Industries for the Blind was established in 1938, two months after the enactment of the Wagner-O'Day Act, to "promote the welfare of blind persons in general and blind workers in particular" as stated in NIB's Certificate of Incorporation. NIB subsequently was designated by CPBOSH as the central nonprofit agency under the JWOD Act. The main target population to be served and assisted by NIB were blind and multihandicapped blind persons employed by the associated workshops for the blind.

The function of NIB was to coordinate the workshop activities under the JWOD program, to ensure workshop compliance with Federal regulations, and to equitably distribute government purchase orders among the workshops. NIB was also to serve as a liaison between the Federal government and workshops participating in the program.

While currently headquartered in Wayne, New Jersey, NIB has offices in Earth City, Missouri and Alexandria, Virginia. The Missouri office serves as the technical center and provides technical, manufacturing, and quality control support to the associated workshops. The technical center provides workshops with expanded product development and production service capabilities. It also houses a government approved quality assurance laboratory which ensures acceptable quality of commodities sold to the government.

In addition to the services provided by the technical center, NIB also provides a range of technical assistance to its associated workshops to help them provide jobs to any blind person desiring and capable of employment. These services include, but are not limited to:

-Rehabilitation Research and Training
-Wage and Hour Compliance
-Contract and Specification Compliance
-Subcontract Procurement Assistance
-Prime Contracting
-Costing and Pricing
-Industrial Engineering
-Central Purchasing of Raw Materials
-Production Scheduling
-Market Research and Merchandising
-Accounting and Office Administration
-Computerization and Office Automation Assistance

Because of the nature of the professional and technical assistance NIB provides to its associated workshops, it is essential that NIB identify and hire qualified persons, particularly with appropriate training and expertise in highly specialized areas such as industrial engineering, manufacturing research, finance, and Federal procurement practices. This is to ensure that the needs of the workshops are adequately met and, more importantly, that the goals of the JWOD program are achieved, specifically to increase employment opportunities for blind and multihandicapped blind persons in workshops.

I would like to talk a little further about affirmative action and employment practices at National Industries for the Blind. In line with NIB's Affirmative Action Plan, it is the agency's policy to "recruit, hire, train, compensate, promote, assign, transfer, and terminate employees based on their own abilities, achievement and experience without regard to race, color, religion, sex, national or ethnic origin, age, mental or physical handicap, or veteran status..." The NIB Affirmative Action Plan has been in existence for many years. (A copy of the plan is enclosed as Attachment A). As an independent initiative by NIB, periodically the Plan is reviewed by individuals with expertise related to affirmative action and the disability field. Although not required by law, NIB felt that this review process was an added assurance that the agency's employment practices met all of our legal and moral obligations.

In addition to its own Affirmative Action Plan, NIB must comply with Executive Order #11246, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act, and Section 503 of the Rehabilitation Act of 1973. Because NIB is a contractor with the Federal government, the organization is subject to the provisions of Section 503 of the Rehabilitation Act. Section 503 requires specific steps for affirmative action for disabled persons with regard to all employment practices of the contractor.

The NIB board of directors recently reaffirmed the agency's longstanding commitment to fair employment practices through the development of a board approved "Policy on Employment Related Decisions." This policy statement, included in the record as Attachment B, establishes broad guidelines to be followed by NIB in its employment decisions, in conjunction with previously discussed affirmative action requirements and NIB's Certificate of Incorporation. As stated in the policy, NIB's employment practices are guided primarily by the decisions and actions that would be in the best interest of blind workers employed in the associated workshops. NIB is a critical link to and extension of the workshops. This role necessitates qualified staff who are best able to provide services to enhance the employment of blind workers in associated workshops.

Within our role every effort is made at NIB to recruit, hire, and promote individuals who are blind and disabled.

When position openings become available, NIB encourages blind and other disabled persons to apply. To assist NIB to identify qualified disabled candidates, each job announcement is sent to 56 referral sources. These include state rehabilitation agencies, private nonprofit agencies, consumer groups, and other organizations which serve primarily as job referral sources of potential employees who are disabled. I would like to share with the members of the Subcommittee a letter that NIB received from a state rehabilitation agency in response to an NIB job announcement. (The letter is enclosed as Attachment C). While this state vocational counselor has been successful in referring two employees to NIB, this letter highlights some of the difficulties encountered in identifying qualified blind candidates for certain types of employment. As discussed in the letter, these factors include the ability or willingness to relocate, the attainment of the appropriate and required credentials, or the suitability for competitive employment. NIB shares many of these frustrations in our own recruitment and hiring efforts.

Certainly, there are highly trained, qualified disabled persons who would be suitable candidates for employment at NIB; and, in fact, there are a number of blind and disabled persons on NIB's staff. We do believe, however, that the numbers of such persons in the areas of specialization required for employment at NIB are limited. Further, we must consider that most people, including those who are disabled, desire a choice in where they will be employed. The disabled individual trained in a technical field may or may not want to work for a small nonprofit organization. The assumption should not be made that because a person is disabled that he or she would automatically prefer to be employed by an agency representing disabled persons.

It is important to remember that the American blind population is a heterogeneous population. Today, while some blind persons are successful in developing careers in competitive industry, others are unsuccessful or simply select not to seek competitive employment.

There is also a group of blind persons who desire competitive employment, but competitive employers are unable or as yet unwilling to make the needed accommodations which would make the individual's employment successful.

When I speak of accommodations, I am referring to those modifications of the work environment that enable an employee to accomplish the responsibilities of the job. The NIB rehabilitation staff continually assists the workshops in modifying work-stations to achieve the optimum light and color condition to assure success for a given blind worker on the work task. It is important to remember that many legally blind persons have some useable vision. The NIB rehabilitation staff also advises the workshops regarding other types of accommodations for blind workers. These recommendations, made in consultation with the employee, serve to enable each person to perform his or her job functions efficiently and comfortably.

With respect to blind employees on NIB's staff, the agency has made available IBM microcomputer systems with large print capability, closed circuit television systems, and a variety of other low vision aids. These capital equipment accommodations are complemented by certain personnel practices such as flexible hours due to transportation schedules, assistance with housing located on transportation routes, and light and color accommodations. While NIB places an emphasis on hiring qualified blind persons, we are aware that our moral and legal obligations encompass persons with a wide variety of disabilities. With respect to employees with other than visual disabilities, NIB also provides various accommodations for increased success in performing their jobs.

With the Chairman's permission, I would like to introduce Ms. Elaine Sanislo, the Coordinator of Public Relations at NIB, and have her explain and demonstrate the Visualtek, a closed circuit television system which enlarges print to enable Ms. Sanislo to read more easily.

[EXPLANATION AND DEMONSTRATION OF VISUALTEK]

The Committee for Purchase from the Blind and Other Severely Handicapped annually requires the central nonprofit agencies to determine the number of employees with disabilities on their staffs. Each CNA employee is requested to voluntarily record their disability as listed on OMB Standard Form 256. As of January 1987 when NIB employees last completed Standard Form 256, one third (33%) of NIB's employees who noted their disability status had at least one disability. At that time, NIB had 92 employees with 87 completing the form.

In closing, I would like to thank the Chairman and Subcommittee members for allowing me the opportunity to testify. Again, I strongly urge the Subcommittee to increase the Fiscal Year 1988 appropriation for the Committee for Purchase from the Blind and Other Severely Handicapped to a level of $875,000. I welcome any questions that you might have.

ATTACHMENT A

NIB

POLICY STATEMENT

COVERING AFFIRMATIVE ACTION

National Industries for the Blind believes that it is vital to the successful conduct of its business and to basic human dignity and welfare to promote ecomonic, social and educational opportunity for all. Accordingly, it is our policy to affirmatively recruit, hire, train, compensate, promote, assign, transfer, and terminate employees based on their own abilities, achievement and experience without regard to race, color, religion, sex, national or ethnic origin, age, mental or physical handicap, or Veteran status in the U. S. Armed Services and to maintain all facilities on a nonsegregated basis.

Each NIB office will implement its own Affirmative Action Plan to insure that all personnel actions are administered in a way which will further the principles of equal employment opportunity. In addition, the employment practices of each office will comply with all requirements and laws of the government, specifically Executive Order #11246, Section 503 of the Rehabilitation Act of 1973 and Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act.

Every manager and supervisor is responsible for carrying out the equal employment opportunity policy of NIB and shall have in their file, job descriptions covering each position under their control.

The Affirmative Action Officer will have prime responsibility for the development and measurement of Affirmative Action Programs and for administrative activities in support of this policy.

INTRODUCTION

As a Contractor for the Federal Government, National Industries for the Blind has certain obligations to take Affirmative Action regarding the employment of handicapped persons, disabled veterans, and Vietnam Era Veterans. As an organization whose goal is the development of employment opportunities for blind and multihandicapped blind persons, NIB has a moral obligation to act affirmatively in the fulfillment of this goal.

Both the Rehabilitation Act of 1973, Section 503, and the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 402, were passed by Congress in order to provide Equal Employment Opportunity for persons who have been absent from the mainstream of our society for a period of time because of a handicapping condition or military service during a time of national turmoil.

Because the requirements under Section 503 and Section 402 are similar in many respects, both are included in this plan. However, there are some differences between the two which are specified in the following pages. The inclusion of both sections under one plan does not relieve us of the responsibility for acting affirmatively with respect to any particular covered group of persons.

Therefore, the following is set forth as the NIB Affirmative Action Plan for handicapped persons, disabled veterans, and Vietnam Era Veterans. All policies and procedures within this plan will be adhered to by all divisions and departments of this company.

APPLICABLE DEFINITIONS*

HANDICAPPED INDIVIDUAL means any person who (1) has a physical or mental impairment which substantially limits one or more of such a person's major life activities, (2) has a record of such impairment or (3) is regarded as having such an impairment.

QUALIFIED HANDICAPPED INDIVIDUAL means a handicapped person who is capable of performing a particular job, with reasonable accommodation to his/her handicap, at the minimum acceptable level of productivity applicable to a nonhandicapped incumbent employee.

DISABLED VETERAN means a person entitled to disability compensation from the Veterans Administration for a disability of 30% or more whose military discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

*These definitions are based on the definitions in the applicable regulations pursuant to Executive Order 12086 (October 5, 1978).

QUALIFIED DISABLED VETERAN means a disabled veteran who is capable of performing a particular job with reasonable accommodation to his/her disability.

VIETNAM ERA VETERAN means a person who served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975 and was discharged or released from military service for other than a dishonorable discharge.

NOTE: These definitions or parts of them may raise questions. If you have a question, please ask the Affirmative Action Liaison in your office or the NIB Affirmative Action Officer.

THE PLAN

1. OUTREACH AND POSITIVE RECRUITMENT

1.1 All job announcements state that NIB is an Equal Opportunity-Affirmative Action Employer

1.2 Each office will maintain in its files and utilize when appropriate, a list of resources including, but not limited to:

(a) The State Agency for the Blind or Visually Handicapped

(b) The State Agency for the Physically Handicapped

(c) The State Employment Service (required by Section 402 for all jobs paying $25,000 or less)

(d) Agencies, local and national, which provide rehabilitation services

(e) Local and national advocacy groups

(f) The Veterans Administration

(g) Organizations of and for the Veterans

1.3 Personnel openings, when advertised in newspapers, magazines, etc., are also placed in media likely to come to the attention of persons covered by this plan.

2. DISSEMINATION OF THE AFFIRMATIVE ACTION PROGRAM

2.1 Internal

2.1.1 All present personnel are notified verbally and in writing that NIB is an Equal Opportunity-Affirmative Action Employer

2.1.2 The NIB corporate Affirmative Action policy is posted where it is readily accessible to all employees

2.1.3 All employees are notified verbally and in writing that the plan is available for their inspection through either the Affirmative Action Liaison or the Affirmative Action Officer

2.1.4 All in-house publications state that NIB is an Equal Opportunity-Affirmative Action Employer

2.1.5 All prospective employees are informed that NIB is an Equal Opportunity-Affirmative Action Employer

2.2 External

2.2.1 All notices, publications, newsletters, annual reports, etc., which are distributed to the public state that NIB is an Equal Employment-Affirmative Action Employer

2.2.2 All associated workshops and agencies are considered as recruitment sources and are notified of this plan

2.2.3 Written notification is sent to all subcontractors, vendors, and suppiers stating the Affirmative Action policies of NIB and requesting that they take appropriate action in this regard

2.2.4 All recruiting sources are notified of NIB's Affirmative Action policy and are requested to take appropriate action

2.2.5 NIB publications emphasize the contributions made by persons covered under this plan

3. JOB ANALYSIS, MODIFICATION

3.1 All job descriptions are reviewed and revised to include only those mental and physical capabilities which are of business necessity

3.2 NIB makes available all reasonable modification in job duties, aids and supports and accommodations which will enable the covered individual to perform the responsibilities of the position satisfactorily

3.3 Appropriate agencies, such as State Agencies for the Blind and/or Handicapped are requested to take part in providing special aids, appliances, devices, etc., when such assistance may be required

4. INTERNAL PERSONNEL REVIEW

4.1 All employees are informed of the plan and asked to voluntarily identify themselves if they believe they are covered by the plan

4.1.1 Any such identification will be used only for Affirmative Action purposes, will be kept strictly confidential and will be available only to the Affirmative Action Officer, appropriate management staff and the Government Compliance Agency

4.2 All employees are compensated using the same wage, salary, and fringe benefit status regardless of disability or veteran status

4.3 Covered employees are encouraged to think in terms of career advancement

5. RECORD KEEPING

5.1 Separate and distinct records are kept for the Affirmative Action Program

5.2 Affirmative Action records are considered confidential and available only to appropriate management and the Government Compliance Agency

5.3 The application form for each person covered by this plan is annotated to show:

(a) The position for which the applicant was considered

(b) Reason for rejection or hire, including a comparison to the person selected, if not the covered individual

(c) Accommodations, supports, aids, etc., provided or considered

5.4 The personnel records of each presently employed covered person is annotated to show:

(a) The position presently held

(b) Other positions for which the employee was considered

(c) The reason for any change of position or employment status

(d) A comparison to the person promoted, if not the covered individual

(e) Accommodations, aids, supports, etc., considered or provided

5.5 All records, including application forms, are maintained for no less than three years

6. GRIEVANCE AND APPEALS

6.1 All employees may raise appeals related to this plan with their immediate supervisor

6.2 All appeals will be thoroughly investigated

6.3 If the appeal is not resolved satisfactorily, the employee can appeal to the Affirmative Action Officer and if still not resolved, directly to company management

7. PROGRAM REVIEW

7.1 This plan is reviewed periodically by the Affirmative Action Officer and NIB management in consultation with persons interested in or covered by this plan

ATTACHMENT B

NATIONAL INDUSTRIES FOR THE BLIND

POLICY ON EMPLOYMENT RELATED DECISIONS

BASIC PURPOSE:

This policy statement establishes broad guidelines to be followed by the staff of National Industries for the Blind (NIB) in the hiring of new employees and the promotion of present employees.

BACKGROUND INFORMATION:

NIB was established by the Workshops for the Blind (Workshops) in 1938 with the primary goal of "promoting the welfare of blind persons in general and blind workers in particular" as stated in its Certificate of Incorporation. NIB has always interpreted the term "blind workers" to mean blind employees of its associated workshops.

NIB was subsequently designated as the Central Nonprofit Agency (CNA) under the original Wagner-O'Day Act (WOD) and the amended Javits-Wagner-O'Day (JWOD) Act (Public Law 92-28) to represent participating Workshops.

Both the WOD and the JWOD Acts were primarily designed to serve a targeted group of blind and severely handicapped persons who were not capable of, nor able to locate, or choose not to seek employment in the competitive sector.

The functions performed and the services provided by NIB to the Workshops are derived primarily from its Certificate of Incorporation and its role as a CNA under the JWOD Act. Other additional functions and services are provided in response to workshop requests.

As an employer, NIB is subject to various legal requirements regarding Affirmative Action, Equal Employment Opportunity and others. As a contractor to the Federal Government, NIB must abide by the provisions of Section 503 of the Rehabilitation Act. Moreover, as a national leader in the field of services for the blind and multihandicapped blind people, NIB is determined to increase the employment of qualified blind persons on its own staff.

NIB BOARD APPROVED POLICY:

1. New employees must be selected and present employees must be promoted strictly on the basis of the individual's qualifications to meet the goal of NIB in "promoting the welfare of blind persons in general and blind workers in particular" and in its role as a CNA under the JWOD Act. The qualifications include ability, attitude, experience, education, character, and potential for advancement. There shall be no discrimination, either in the initial hiring or in subsequent promotion, because of race, religion, nationality, handicap, veteran status, sex, or membership in any lawful organization.

2. NIB's present employees should receive first consideration for any position that becomes available, provided that they have the necessary qualifications. In this way, employees of NIB will have the opportunity to progress to a more responsible position or to more satisfying work.

3. Within the above guidelines, NIB staff will make every possible effort to recruit, hire, and promote qualified blind persons at NIB. In the event of equal qualification, preference will be given to blind or visually impaired individuals.

APPROVAL AUTHORITY:

The President of NIB is granted broad authority in making employment related decisions consistent with this policy. The NIB Board of Directors must, however, approve any exceptions to this policy.

ATTACHMENT C

ILLINOIS DEPARTMENT OF REHABILITATION SERVICES

Mr. Robert Engelbrecht,
National Industries for the Blind
Technical Center
13665 Lakefront Drive
Earth City, MO 63045

February 17, 1987

Dear Bob,

I would like to respond to the last two 'Position Opening' notices that I have received in respect to vacancies at your Earth City site: one for a secretarial position and the other for an Associate Product Development Engineer. As you are aware, I am a vocational counselor for the State of Illinois, Department of Rehabilitation Services, for blind adults in an eight county area in Illinois. I have conducted a search of my current caseload of blind adults in my area, and I have also sent out notices to all other counselors for the Blind in the state of Illinois. Thus far I have been unsuccessful in locating a qualified blind applicant for these two positions.

There are many factors that affect the availability of qualified blind persons for entry into employment into highly skilled occupations such as engineering and secretarial work. For instance, your Earth City location is a minimum of 35 miles to a maximum of 150 miles one way for my Illinois clients to attempt to make the commute to your facility. Many of my client's have families and are not interested in relocation, many of my clients are elderly and are multiply disabled in addition to their blindness and Illinois Rehabilitation is providing multiple service to try to help these persons adjust to their blindness, learn coping skills and maintain themselves in their own homes as homemakers; and they are not good candidates for competitive gainful employment. I see approximately seventy newly visually impaired persons a year and clients come and go in the rehabilitation system and therefore I only have access and/or knowledge of my clients that are currently in my case load and are seeking employment for any given period of time.

I sincerely wish I could have been of more assistance in locating a qualified blind applicant and I will continue to attempt to match any job ready blind clients I have in the future to any positions you may have available. I commend N.I.B.'s effort to locate qualified blind candidates for employment and I think it is very important for you to maintain high standards for any candidate for employment with N.I.B.

Sincerely yours,

Rita Howells Rice
Counselor for the Blind

SUBCOMMITTEE RECESS

Senator DECONCINI. I will, and visit Arizona often, please.

The subcommittee will stand in recess now until 11:30 when Senator Mikulski will assume the Chair for the balance of the public witnesses. We apologize to those who are here, but due to scheduling we will have to postpone now for about 1 hour and 40 minutes.

[Whereupon, at 9:50 a.m., Friday, April 10, the subcommittee was recessed, to reconvene at 11:30 a.m., the same day.]

(AFTERNOON SESSION, 11:30 A.M., FRIDAY, APRIL 10, 1987)

NONDEPARTMENTAL WITNESSES

STATEMENT OF M. SIGMUND SHAPIRO, MEMBER, BOARD OF DIRECTORS, NATIONAL CUSTOMS BROKERS & FOUNDERS ASSOCIATIONS

Senator MIKULSKI. The Treasury, Postal Service Subcommittee is now in session, and we will continue with our public witnesses.

I would first like to welcome Mr. Sig Shapiro, a member of the board of directors of the National Customs Brokers & Forwarders Association. He will be testifying about the U.S. Customs Service fiscal year 1988 budget.

I would like the record to show that Mr. Shapiro is a pillar of the Baltimore business community and has longstanding expertise in maritime matters. He was also awarded the port man of the year in 1986, and he is a real expert in customs matters.

I hope the committee will benefit as much from his advice as I have. Mr. Shapiro.

Mr. SHAPIRO. Thank you, Senator.

I am Sigmund Shapiro, representing the National Customs Brokers & Forwarders Association.

I am also president of my own company, Sigmund Shapiro & Co.

As you know, customs brokers provide the private sector interface with U.S. Customs and facilitate the documentation that is necessary to the importation and exportation of merchandise in the United States.

Over the years, there seems to be a never-ending cycle of Congress and industry informing Customs of problems, and then of Customs refusing to make the necessary adjustment.

Again this year, Customs has failed to request sufficient resources to meet its needs and obligations. The service continues to claim automation as a panacea for Customs operations.

The in-bond system, so important to the areas of the country represented on this committee, continues to be eroded through a calculated effort to destroy its commercial viability. And the Customs Service continues to take the short path through established procedures, ignoring clear statutory dictates in order to reach its own policy objectives.

Rather than revisit these issues, I would prefer instead to focus on areas which we believe are very important today for the subcommittee to hear firsthand from our community.

The PAIRED program, which is an acronym for port of arrival, immediate release and enforcement determination, was initiated in 1984 as a test.

PAIRED permits a filing of customs entries in one port in order to release goods that arrive in another. A broker initially could clear goods in Atlanta and have them released in Savannah by simply filing an automated entry through the local Customs office.

A major obstacle to customs implementation of PAIRED, however, is that PAIRED contradicts Federal law. The statute, 19 U.S.C. 1484 (a)(2)(a), explicitly requires a filing of the entry in the port of release.

Its rationale is clear. There is more to acting as a customs broker than simply filing a piece of paper. The broker must be familiar with the goods and available to Customs at the port.

It is a requirement premised partly on service to the customer, but it is primarily designed to ensure compliance with Customs' law, and enhance the Customs Service's ability to meet its enforcement responsibility.

Taken to a national scale, Customs in Pembina, ND, would be faced with trying to reach a customs broker as far away as San Diego to clear up problems in the release of a commercial shipment in the local port of entry.

Customs, however, is embarked on a process of reorganizing the structure of the service so that it can limit its duties to the ocean ports of our country.

This goal was spelled out 2 years ago in a Customs 5-year plan calling for termination of the inbond system.

The politics of the proposal are very unappealing, however. Without inland ports, an entire international trade infrastructure would disappear. Banks, importers, exporters, brokers, and the myriad of businesses whose existence depends on international commerce.

And the results would spread to many of the ocean ports themselves. Under PAIRED, New York brokers could clear goods in Norfolk, eliminating the need for many of Norfolk's local international trade businesses.

That is why the 5-year plan is unpopular here and why Customs has never sought implementing legislation. Instead the service has gone about that task obliquely by continuing the test.

Congress needs to give this program the most careful possible examination. A decision to permit the PAIRED program to become nationwide and permanent has very serious ramifications to the trading system.

It should be implemented in ad hoc fashion by regulation in defiance of the statute. That is why the subcommittee of the House took such an interest in 1986.

Last year, the Congress registered its strong reservations about the PAIRED program. Utilization of PAIRED requires a filing of documents at a place other than the district of release, which is not permitted by law.

To work around this, Customs has implemented the test.

Madam Chairman, the House and the Senate last year objected to this and asked for test results.

The Congress received assurances that the matter would be brought before the authorizing committees. To date Customs has ignored that directive.

Next we come to the user fee which is supposedly a dedicated fund and is not achieving its goals intended by the Congress, and needs to be retooled to respond to the demands of customs, commercial operations, and to keep faith with the importing public who thought that they would be paying for improved services.

The user fees have been sequestered. Customs, in the meantime, is asking for a reduction in its budget, and it is causing a crunch with respect to service.

In addition to this user fee, Customs has established a new system of centralized examination. That is, channelling merchandise to a single point within a port for customs inspection.

The service has imposed new and substantial costs on American business for services that properly should be included with Customs' own budget, especially since Customs has a user fee.

Moreover, in its across-the-board application of the policy, Customs has ignored local circumstances for the sake of consistency.

Senator, my total comments are in the record and I do not want to belabor this committee with repeating them all.

I would be glad to answer any questions that you might have.

PREPARED STATEMENT

Senator MIKULSKI. Well, Mr. Shapiro, I know that you have made comments about user fees and the PAIRED system. We are going to enter your entire statement into the record.

[The statement follows:]

STATEMENT OF M. SIGMUND SHAPIRO

Mr. Chairman. I am M. Sigmund Shapiro, representing the National Customs Brokers and Forwarders Association. I am President of Samuel Shapiro & Company of Baltimore, customs brokers and freight forwarders providing an extensive range of services in international trade. As you know, customs brokers provide the private sector interface with the U.S. Customs Service and facilitate the documentation that is necessitated by the importation of a product, payment of duties and observance of the laws of the United States. In the past, I have had the opportunity to discuss several issues of real concern to our industry. There appears however to be a never-ending cycle of Congress and industry informing Customs of problems and then of Customs refusing to make the necessary adjustments. Again this year, Customs has failed to request sufficient resources to meet its needs and obligations. The Service continues to claim automation as a panacea for Customs operations. The In-Bond System, so important to the areas of the country represented on this Committee, continue to be eroded through a calculated effort to destroy its commercial viability. And, the Customs Service continues to take the short path through established procedures, ignoring clear statutory dictates in order to reach its own policy objectives.

Rather than revisit these issues, I would prefer instead to focus on areas which we believe are very important today for the subcommittee to hear firsthand from our community:

1. Last year the subcommittee registered its strong reservations about the Port of Arrival Immediate Release and Enforcement Determination (PAIRED) program. Utilization of PAIRED requires the filing of documents at a place other than the district of release, which is not permitted by statute (19 U.S.C. Section 1484 (a)(2)(A). To work around

this, Customs has implemented PAIRED under the guise of being a "test".

Your subcommittee, Mr. Chairman, objected to this and asked for test results last year. You also received assurances that the matter would be brought before the authorizing committees. To date, Customs has ignored that directive.

2. The user fee dedicated fund is not achieving the goals intended by the Congress and needs to be re-tooled to respond to the demands of Customs commercial operations and to keep faith with the importing public, who thought they would be paying for improved services.

3. As Customs establishes a new system of "centralized examination" (that is, channeling commercial cargo to a single point within a port for Customs inspection), the Customs Service has imposed new and substantial costs on American business for services that properly should be included with Customs' own budget. Moreover, in its across-the-board application of the policy, Customs has ignored local circumstance for the sake of consistency.

4. Customs has proposed a radical departure from traditional definitions of "fraud", stripping intent from the meaning of the term in order to arm itself for increasingly confrontational enforcement tactics in the commercial sector.

5. Customs is facilitating the processing of courier-transported merchandise, providing services unavailable to competitors in the trading community and shortcutting Customs' inspection processes to the detriment of its collections. We are particularly concerned that this is

disruptive of broker-importer relationships and ignores statutory requirements.

PAIRED

The Port of Arrival Immediate Release and Enforcement Determination program was initiated in November 1984 as a "test." PAIRED permits the filing of Customs entries in one port in order to release goods that arrive in another. Initially it permitted a customs broker in Atlanta to release goods in Savannah by simply filing an automated entry through the local Customs office. A major obstacle to Customs implementation of PAIRED however is that PAIRED contradicts federal law. The statute - 19 U.S.C. Section 1484 (a)(2)(A) - explicitly requires the filing of the entry in the port of release. Its rationale is clear: there is more to acting as a customs broker than simply filing an entry. A broker must be familiar with the goods and be available to the Customs officials at the port. It is a requirement premised partly on service to the customer, but is primarily designed to assure compliance with customs law and enhance the Customs Service's ability to meet its enforcement responsibilities. Taken to a national scale, Customs officials in Pembina, North Dakota would be faced with trying to reach a customs broker as far away as San Diego, California to clear up problems in the release of a commercial shipment in the local port of entry.

Customs however has embarked on a process of reorganizing the structure of the Service so that it can limit its duties to the ocean ports of our country. This goal was spelled out two years ago in Customs five-year plan calling for termination of the "in-bond" system. The politics of the proposal however are very unappealing. Without inland ports, an entire international trade infrastructure would disappear - banks, importers, brokers and

the myriad of businesses whose existence depends on international commerce. And the results would spread to many of the ocean ports themselves. Under PAIRED, New York brokers could clear goods in Norfolk, eliminating the need for many of Norfolk's local international trade businesses. That is why the 5-year plan is unpopular here and why Customs has never sought implementing legislation. Instead the Service has gone about that task obliquely.

PAIRED is part of this strategy. It takes the most problem-free cargo and provides a commercial substitute for "in-bond" movement of commercial goods. This leaves only "problem" shipments, that require closer scrutiny and examination, for in-bond. And, it will dry up the in-bond transportation system, making it undesirable to the shipper and identifying new candidates for staff reductions and port closures by Customs. Finally, in the long-term, an inevitable result of the PAIRED program would be a massive relocation of Customs personnel away from where the cargo is located in order to man locations where the entry filers are located, a result which seems not to have been considered at Customs.

Congress needs to give this program the most careful possible examination. A decision to permit the PAIRED program to become nationwide and permanent has very serious ramifications to the trading system. It should <u>not</u> be implemented in ad hoc fashion, by regulation in defiance of the statute. That is why the subcommittee took such an interest in 1986.

To recap, the subcommittee asked Customs for results from this "test." You were assured that the matter would be brought before the authorizing committee. And, you were promised that the "test" would not go on indefinitely. None of this has taken place. NCBFAA therefore urges further action this year to ensure

that the subcommittee's funds are not abused as they have been in years past.

CUSTOMS USER FEES

In 1986, the authorization committees responded to budget resolution requirements by establishing a Customs user fee of 0.22 percent ad valorem, based on the appraised customs value of the imported merchandise. That rate was to be dropped to a ceiling of 0.17 percent for FY 88 and FY 89, with provision that the amount could be reduced even further to reflect appropriations below authorized levels for commercial services. The purpose was clear: Congress sought a one-for-one match between the user fee revenues and Congressional appropriations for Customs' commercial operations. To cement this, the Committee established a dedicated fund to which all Customs user fee proceeds must be deposited. That fund was designed solely to fund Customs' commercial operations. Congress wrote into statute the philosophy that importers were paying for Customs services through this fee, even to the point that it forbade collections of charges for inspection and clearance over and above the user fee.

Candidly, NCBFAA opposed the user fee. We believe that it is a tax and nothing else. We stressed that it was GATT illegal and, indeed, that charge will be pursued by several of our GATT trading partners. And, we objected that one segment of the public should not have to bear the costs of providing revenues that were properly the obligation of the general public. It was, we said, tantamount to paying a fee to file your income tax return.

The authorizing committees nonetheless overrode these concerns and it is not our intent today to revisit those issues. We are concerned however that the Office of Management and Budget (OMB)

is attempting to undo that work, that Congress is not able to truly "dedicate" the fund, and that we will continue to witness Customs' intransigence to the obligation of applying adequate resources for commercial operations.

To begin, suffice it to say that not one penny of the user fee collected since December has gone to pay for Customs services. In the crush of legislation at the end of the 99th Congress, the OBRA bill (P.L. 99-509) providing for Customs user fees passed almost simultaneously with the FY 87 Continuing Resolution appropriating funds for the Customs Service. Consequently, there was no specific provision in the Continuing Resolution directing that Customs' commercial operations be funded from the user fee dedicated account. These funds are therefore accumulating and are unlikely to be applied to the FY 87 appropriations.

For its part, OMB has claimed this fund as "revenue", dictated that a rescission be requested from Customs FY 87 appropriations, and declared that any application of the present account will jeopardize Gramm-Rudman deficit targets. In essence, the linkage between the Customs user fee and funding of commercial operations has been destroyed this year and OMB is attempting to cut funding even further.

This has resulted in false expectations and budgetary chaos. The Customs overtime situation offers an appropriate illustration. As we noted, the OBRA law prohibits collection of reimbursement for Customs' overtime costs for cargo clearance. Instead, these costs were to be borne by the user fee account. After December 1, 1986, the effective date of the user fee statute, Customs granted overtime almost upon request. A sign of this was the fact that many inspectors reached their quarterly overtime "cap" and the agency at the district level was concerned about meeting overtime demand. Now, as Customs has realized that there is in

fact no recourse to the user fee account and is unable by law to collect overtime reimbursement, the agency has sharply cutback overtime services. A notice from Customs in Minneapolis indicated that overtime would be limited to "perishable" items and a highly limited class of other merchandise. A dilemma results: an importer who urgently needs overtime services cannot even offer to pay for the service and budgetary constraints make overtime increasingly unavailable.

The answers, we believe, are in the alternative: either Congress should eliminate the user fee; or, restructure last year's law to re-establish the link between the fee and Customs' commercial services. The latter may require some technical revision of the reimbursable account concept, more compelling language to ensure that Customs uses these funds as Congress intends, and perhaps some additional fine-tuning. And, this subcommittee should specifically allocate funds in your supplemental appropriations bill and in succeeding legislation to draw on this account. Otherwise, this fund will become simply another revenue vehicle for OMB and fail to serve the trading public for whom it was designed.

EXPENSES OF CENTRALIZED EXAMINATION

We are concerned over an increasing trend towards charging Customs' expenses in clearing cargo to importers. It had been the rule, for as long as anyone could remember, that the usual and ordinary costs and expenses incurred by Customs in clearing merchandise, such as examination and inspection, were treated as a normal part of the costs of operating systems - as they properly should be. Under the former system, these expenses were charged to the importer only where he requested examination outside the normal channels, for instance, at his warehouse or premises, or after normal Customs operating hours. In these

instances, the importer was rightfully charged for Customs' expenses, because he was receiving a clear benefit at his request. However, within the past three years or so, Customs has changed the system, and charges most of these expenses to the importer as involuntary expenses.

"Centralized" examination is an excellent case in point. In a series of directives (generally implemented without benefit of "notice of proposed rulemaking" under the Administrative Procedure Act), Customs has eliminated the element of choice to an importer in selecting the kind of examination (i.e., whether chargeable or non-chargeable) and has also decided that all expenses of such examination must be borne by the importer. See Customs Manual Supplement 3275-01 of January 17, 1983; Customs Directive 3270-01 of December 3, 1984; Customs Directive 3243-03 of July 8, 1986; and Customs Directive 3270-03 of January 5, 1987 completing the process by establishing privately-operated "centralized examination stations" under which certain cargo must be sent for inspection. We are fearful that under the most recent directive, the private ownership of these new stations may, in the absence of proper supervision and regulation by Customs, charge exorbitant and monopolistic fees to importers, whom, it must be stressed, realistically cannot avoid use of these facilities.

Charging the importer such expenses, which traditionally were paid out of Customs' budget, violates the provisions of Annex 5.4 of 1965 Convention on the Facilitation of International Maritime Traffic ("The London Convention"), which entered into force with respect to the United States on May 16, 1967 (18 U.S.T. 410, TIAS 6251). A provision of this Convention states that "the normal services of public authorities at a port should be provided without charge during regular working hours". Obviously, inspection and release of imported goods is a "normal service" of

the Customs authorities of most nations, and should not be "privately" charged to the importer.

Additionally, we refer to the relationship between the new 0.22% "user fee" assessed on most entries of imported merchandise under Public Law 99-509 and these expenses of examination. Section 8101(c)(1) of Public Law 99-509 prohibited Customs from imposing charges for cargo inspection, clearance, etc. over and above the new "user fee". Obviously, this prohibits direct charges by Customs of this nature. It is not clear, however, whether the prohibition does or should apply to indirect charges mandated by Customs requirements but collected by the private sector. We have urged Customs that the prohibition should apply in case of "centralized examination station" costs (see Attachment A); we are less than optimistic that Customs will agree and we therefore have urged Congress to amend the law in this respect. It is manifestly unfair to charge importers the 0.22% "user fee," dedicated in part to pay for Customs' expenses of inspection and clearance, yet ask importers to pay what are essentially Customs charges for the same functions that Customs formerly performed but are now affected by the private sector.

Finally, NCBFAA has been alerted to instances where, in some districts, across-the-board application of central examination may not make sense. NCBFAA recommends that district directors be given some latitude in establishing centralized examination sites and that great care be taken to avoid needless additional costs and delays.

CUSTOMS' PROPOSED REDEFINITION OF "FRAUD"

In a Federal Register notice of December 10, 1986, Customs proposed a radical, illogical and unsound reformulation of the concept of Customs "fraud" within the context of the penalty and seizure authority contained in the 19 U.S.C. 1592. Customs

proposes to remove the traditional requirement of intent to defraud and to substitute a test which requires merely that the alleged "fraudulent" act or conduct was done "voluntarily or intentionally". This is an alarming development to the importing community and one which clearly highlights Customs' obsession with enforcement concerns to the detriment of elementary administrative justice and due process. In our submission to Customs (see Attachment B) we maintained that the proposed redefinition of "fraud" would --

(a) arbitrarily reverse a long-standing administrative practice;

(b) completely depart from established law;

(c) substantially and unjustifiably harshen the impact of Section 1592 on the accused citizen;

(d) have the effect of negating the "gross negligence" category of culpable offenses contained in existing law and regulation, leaving only the extreme choices of "fraud" versus "ordinary negligence"; and

(e) comprise an ultra vires attempt to amend the statute, thereby usurping Congress' prerogatives.

THE "COURIER" PROBLEM

In a Federal Register notice of July 22, 1986 (T.D. 86-143), Customs granted a special favor to the rapidly-growing industry transporting merchandise by international courier or "express air service". This sector has experienced explosive growth, and now utterly fails to resemble the traditional "courier" service of yesteryear which utilized a person travelling as an international

passenger to hand-carry documents, data, and similar time-sensitive non-commercial items. Today, the "courier" and "air express" companies go so far as to own or charter their own jet aircraft and to offer all-inclusive, door-to-door service, including Customs clearance, for practically any merchandise.

The July 22, 1986 special procedures allowed these companies to clear goods under informal and consolidated entry procedures and, as a practical matter, on a high-volume 24-hour-per-day basis at major international hubs (e.g., Federal Express' nationwide clearance operation at Memphis International Airport). It must be stressed that these significant operational and economic advantages in clearance are unavailable to importers and their Customs brokers who enter goods under established methods. Moreover, although Customs insisted in its "final rule" notice that the new procedures "assure the protection of the revenue in accord with all applicable law and regulations", we have serious reservations on this score, and are aware of numerous instances where goods have been cleared utilizing these new procedures in a manner which was in violation of existing law and regulations - quite understandable incidents considering the tremendous volume of clearances effected by the courier/air express group at all hours of the day or night. Should the Committee wish, we would be glad to supplement our submission in detail on this score.

Another issue raised by the special courier/air express procedures, involving the technicalities of import clearance by a licensed broker, threatens serious interference with established broker-client relationships. Responding to the concerns of the brokerage community, in an effort to prevent the unauthorized transaction of Customs brokerage contrary to 19 U.S.C. 1641, Congress enacted Public Law 97-446. Section 201 of this law amended 19 U.S.C. 1484 to provide that the "importer of record" for purposes of Customs entry documentation was limited to (a)

the owner of the goods, (b) the purchaser, or (c) a licensed broker designated by either party. The purpose of the amendment was to prevent the unauthorized and unlicensed clearance of goods by "nominal" consignees and to ensure that only the proper party or his licensed broker agent attended to the formalities of Customs clearance. The law was specifically directed at cargo clearances by courier companies. Unfortunately, Customs has been extremely dilatory in implementing the law by appropriate regulation changes. On December 24, 1985, almost two full years after the enactment of Public Law 97-446, Customs proposed to amend the Customs regulations to distinguish between the consignee named on the "master" airway bill (that is, the single consignee of air cargo shipped on a consolidated basis) from the consignees named on the "house" airway bill (that is, the individual consignees to whom each parcel or piece was addressed). The proposed regulations amendment dealt with the proper party to "designate" a Customs broker to attend to the Customs entry. This is a matter of vital concern to our member brokers, in that it permits the shipper or recipient of the goods to continue to select a broker familiar to them (one who knows their "line" of merchandise and any special problems or requirements attendant upon its clearance) to get the merchandise properly through Customs. In our response to the December 24, 1985 notice, we stressed the direct, inescapable connection between the then-proposed "courier/air express company" procedures and the question of broker designation. We submitted a suggested revision of the regulations section specifically involved governing "consolidated" shipments, and also urged that all entry regulations be reviewed and revised as necessary, to implement the intent of Public Law 97-446. We also stressed the necessity of harmonizing both matters.

Unfortunately, Customs chose to move forward with the courier/air express special procedures, while delaying action on our other

concerns. The net effect is that one industry sector has been granted special preferential treatment, resulting in clear economic advantages, while the legitimate needs of another industry sector have been ignored.

In conclusion, we are happy to strike a more positive note to end our testimony, and to express our appreciation to Customs for its excellent cooperation with our Association in the recently-completed revision of a Customs form of all-encompassing importance authorizing Customs' release of the goods (Form 3461 and 3461-ALT). The exercise took place over a lengthy period; our officials and their counterparts in Customs worked well together to bring the matter to a good conclusion, equally benefitting Customs and the private sector. Our needs, and those of our importing clientele were well-recognized and properly attended to by Customs, and for this we wish to express our gratitude. On the whole, Customs people are among the best and most talented in the Federal service. We think that many of our problems in communication and cooperation with Customs are attributable to a mind-set on the part of the current administration which amounts to an over-concern with "law enforcement". Granting this legitimate concern, this attitude unfortunately overshadows and detracts from our own equally legitimate commercial concerns as well.

Senator MIKULSKI. I do want to ask you to make a few comments on the day one idea that Customs floated by you. I know that they have solicited your views, and perhaps if you could tell us, crisply, your thoughts on it, and then submit, if you wish, additional comments on behalf of your association on that issue.

Mr. SHAPIRO. I would be happy to, Senator. Day one is an imaginative new proposal. The Commissioner convened his senior people at his farm, and posed to them an idea—if they had to create a Customs Service out of whole cloth, if there were no Customs Service, how would they do it?

So they blue-skied these things, and came up with some ideas that have long since been discarded. There is nothing new under the Sun as we all know. And they came back with these ideas and bounced them off of the National Brokers Association, and we accused them of smoking their own inventory, because some of the things that they thought of are just counterproductive to the effort and the money that they have spent on automation. They ought to continue to pursue the perfection of their automated system so that it will work to the benefit, not only of the Customs Service, but to the importing-exporting public.

The day one concept is something that I hope will disappear. I think that we have convinced them that they ought to continue on the road that they are going. They cannot reinvent the Customs Service now. There are too many other agencies involved, and there are too many complications.

It is not 1789 when the Customs Service came into being, and Alexander Hamilton is long gone, so they have to live with what they have, and I think that they ought to continue on the road of trying to improve their automation.

Senator MIKULSKI. So your recommendation is, rather than undertake a massive reorganization at Customs, concentrate on what they do best, guaranteeing efficiency and cost effectiveness.

Mr. SHAPIRO. And have their personnel effectively screening merchandise. I know, Senator, that you are very interested in the narcotics problem, and as am I, and I think that Customs has been, in many respects, been used as a whipping boy on the narcotics thing.

I agree that the pending legislation would probably be the best way to go and let Customs deal with the commercial end and only be tangentially involved in narcotics. The tail is starting to wag the dog.

Senator MIKULSKI. Well, as you know, Senator DeConcini has a very strong commitment to the issue of narcotics control as do I.

We feel that the fact that I am here, and was actually invited to participate on this committee, was to really affirm our strong interest in the commercial focus of Customs, and we will be doing that through the appropriations process.

Thank you very much for your recommendations.

Mr. SHAPIRO. You are welcome, Senator.

Senator MIKULSKI. Senator Harkin. We now would like to call to the table Evelyne Villines, a member of the board of directors of the Na-

tional Industries for the Severely Handicapped, and we know that our colleague, Senator Harkin, wishes to introduce her. If they could come forward.

The committee would like to welcome Senator Tom Harkin of Iowa.

STATEMENT OF HON. TOM HARKIN, U.S. SENATOR FROM IOWA

Senator HARKIN. Thank you very much, Madam Chairwoman, for this great opportunity for me. I am here because this is a very dear friend of mine and someone who I have worked with for a very long time.

I am not a Member of this subcommittee but I have a very special interest in the business that is here today.

As you know, a very important step in the appropriations process, for obvious reasons, is the appearance before various subcommittees of public witnesses.

You have one here who is truly outstanding. Evelyne Villines is someone I have come to know over many years of working here and in Iowa.

Evelyne has come a long way to speak on behalf of the National Industries for the Severely Handicapped.

But before Evelyne begins I just want to highlight for the committee a few of her accomplishments, and I say highlight because we do not have enough time to list all of her accomplishments.

Aside from being a leading national spokesperson for handicapped persons, Evelyne is the mother of three children. She is one of the most vivacious people I have ever met, and as you will get to know her you will agree with me, and she is living proof, indeed, that it is ability and not disability that really counts in our lives. Evelyne is presently director of the Client Assistance Program for the Easter Seal Society of Iowa.

Prior to that, she was director of development at Iowa Lutheran Hospital in Des Moines, and from 1965 to 1975, when I first met her, she served as executive secretary of the Iowa Governor's Committee on employment of the handicapped, and through her dedication and ability helped to expand rehabilitation and employment opportunities for thousands of handicapped persons.

Evelyne has received awards more numerous than I can begin to list, but let me just note that among them is her introduction in October 1986 into the National Hall of Fame for persons with disabilities, where, I might add, she joined the likes of Helen Keller and Franklin D. Roosevelt, for her outstanding contributions to persons in the disabled community.

She is an outstanding human being and we are honored to have her here with us today, and Evelyne, I want to thank you for joining us and coming this great distance to give us your testimony.

Thank you very much for this opportunity.

Senator MIKULSKI. Thank you, Senator, and your constituents should know you are one of the most able Members of the Appropriations

Committee, fighting for Iowa, and fighting for people who often do not have a voice or a lobby.

STATEMENT OF EVELYNE VILLINES, MEMBER, BOARD OF DIRECTORS, NATIONAL INDUSTRIES FOR THE SEVERELY HANDICAPPED

Senator MIKULSKI. Miss Villines, we welcome you to this hearing, and congratulations on your recognition in the Hall of Fame.

Ms. VILLINES. Thank you very much, and I am delighted for the opportunity to be here and to speak on behalf of my people.

I am a member of the board of directors for the National Industries for the Severely Handicapped, more commonly known by its acronym, NISH. NISH is the central nonprofit agency designated by the Committee for Purchase from the Blind and Other Severely Handicapped, to provide assistance to sheltered workshops employing persons with severe disabilities under the auspices of the Javits-Wagner-O'Day Act.

I appreciate this opportunity to be here today and to talk to you about the need for increased funding for the Committee for Purchase from the Blind and Other Severely Handicapped, which I will refer to as the statutory committee.

While we at NISH provide technical support, under the law only the statutory committee has the authority to approve the procurements which provide the employment opportunity so important to persons with severe disabilities.

To help meet this need, NISH strongly supports an increase of at least $50,000 over the President's budget request for fiscal year 1988, to assist the committee in meeting the needs of the community.

It is the responsibility of the statutory committee to administer the program created by the JWOD Act. For almost 50 years, this unique and highly successful program has provided quality goods and services to the Federal Government at a fair-market price while providing quality employment to the persons served by this program.

Today it remains one of the least costly Federal programs, serving over 16,000 blind and other severely handicapped at a cost of approximately $42 per person.

Only the statutory committee has the responsibility and authority to determine what goods and services will be produced by workshops under the program.

In making this determination the staff, and members of the statutory committee must consider a multitude of factors. If the processing of the many details the statutory committee must consider, cannot be accomplished in a time-sensitive fashion, then the opportunity to produce the item or service may be lost to the workshop for a year or longer, and all calculation must start from scratch.

Loss of contract opportunities such as these directly translate into a loss of employment opportunities for persons with severe disabilities.

With all of the workshops throughout the United States, including more than 1,000 associated with NISH, who are actively seeking their first contract under this program, the workload on the statutory committee has increased tremendously over the last few years.

And yet despite this growth, the statutory committee has had only 12 full-time staff positions since 1979. During that timeframe the number of the items on the procurement list has increased by 91 percent and the number of producing workshops has increased by 83 percent, a phenomenal growth.

Recognizing the current fiscal environment, we are requesting only a modest increase. In truth, many more people with severe disabilities could be served by the program if greater funds were available, but we limited our request to one that we considered to be realistic under the circumstances, and if you want to give us more, we will take it.

Although we admit our recommendation is modest, we believe it will yield positive and cost-effective benefits. An increase of only $50,000 would alleviate some of the administrative burden and enhance staff capacity to process projects, and thereby employ greater numbers of persons with severe disability.

No other segment of our society has a greater employment need, and I therefore urge you, and the members of this committee, to consider favorably our request for increased appropriation.

There is one other subject that I would like to address, briefly, because it is something I am very proud of. NISH's affirmative action program. At NISH we practice what we preach; 42 percent of the staff of NISH meets the Government's definition of persons with disabilities, and 13 of our staff of 91 meet the most restrictive Government definition of persons with disabilities.

While less than 6 percent of the total working force in our Nation fall into this most restrictive category, more than 14 percent of the NISH staff falls into this category.

If NISH were a Federal agency, it would rank third in order of agencies with the greatest number of persons with disabilities in the most restrictive category.

Last year, in hearings before the House subcommittee, the National Federation for the Blind, an organization that is not familiar with our policies, testified that NISH should be, I quote, "a model employer" for severely handicapped persons.

We did not have an opportunity to respond at that time, but just in case the subject comes up again, we want you to know that we are a model employer in hiring persons with disabilities and we are proud of our record.

The term "severely handicapped" refers to persons whose mental or physical disability is so severe that they are prevented from engaging in normal competitive employment.

Consequently, once they are employed in the competitive labor market, they are no longer considered severely handicapped.

Madam Chairman, I have been a member of the board of directors of NISH since it was first established in 1974, and so far they have not found out how to get rid of me.

During 9 years of my 13 years on the board, I have held leadership positions including chairman of the board. I am not only familiar with

NISH's employment policies, but my service in various leadership capacities has allowed me to assist in formulating and putting these policies into action.

I am here to assure you that I would not be affiliated with an organization that was not an affirmative action employer, much less have devoted 13 years of my life to this organization.

The executive officers at NISH are accountable to the board for their hiring decisions. If they fail to have an affirmative action program they must answer to board members who are among the Nation's leading advocates for employment of persons with disabilities.

I want to assure you, and other members of the committee, that NISH has an excellent affirmative action program, and we plan to continue active outreach efforts to employ persons with disabilities on the NISH staff.

And now I would like to leave you with just a personal note.

Senator MIKULSKI. You have 3 more minutes.

Ms. VILLINES. OK. Fine. And that is that at our national conference this week in Albuquerque, we honored our handicapped worker of the year, and I think her story will tell you, more effectively than I, what NISH really is.

This young woman was born with cerebral palsy and spastic quadriplegia. Her disabilities have caused her to have an impaired speech pattern and poor handwriting.

Many persons with Charlotte's severe disabilities would not attempt to seek employment, but Charlotte was fortunate to have a supportive family and services available through a local workshop.

Her progress has sometimes been slow because of her disabilities, but she has learned to operate sophisticated equipment. She has been earning minimum wages for the past 6 years, and has earned progressive raises.

In 1984, Charlotte began working as a key operator in one of the workshop's JWOD contracts. When I asked Charlotte about her job, she beamed, and she told me about her increased opportunities for independence, and it gave her a chance to learn new things.

She told me that training at the workshop made it possible for her to work at the computer. Despite Charlotte's many accomplishments, it is unlikely that Charlotte could walk into a commercial business, and expect to have a fighting chance, but the JWOD program gave her that chance.

The other evening, I was sitting at my kitchen table in Des Moines, and I was reviewing this testimony, and I heard a news report about the problem which had destroyed the Atlas Centaur rocket and a communications satellite at the cost of $160 million.

I think that we cannot help but ponder our priorities. I urge your favorable consideration of this request. I am speaking for myself, for NISH, for our board of directors, for the 12,000 people that we serve today, but most of all I am speaking to you on behalf of all of those persons out there who can benefit if appropriate funding is given.

Thank you so much.

Senator MIKULSKI. Thank you, Ms. Villines, for very eloquent testimony. I think what you have indicated to us today is that the whole issue of sheltered workshops, and our view of the severely disabled has certainly changed since the days when they were relegated to back rooms, making baskets, and viewed as charity.

Ms. VILLINES. Absolutely.

Senator MIKULSKI. So thank you for your good work, and we will take your recommendation most favorably.

Ms. VILLINES. And thank you for your time.

PREPARED STATEMENT

Senator MIKULSKI. Thank you, and keep up your own good work.

Ms. VILLINES. I will.

[The statement follows:]

STATEMENT OF EVELYNE VILLINES

Senator DeConcini, Senator Harkin and members of the Subcommittee, I am Evelyne Villines, a member of the Board of Directors for National Industries for the Severely Handicapped, Inc., more commonly known by its acronym, NISH. NISH is the central nonprofit agency designated by the Committee for the Purchase From the Blind and Other Severely Handicapped to provide assistance to sheltered workshops employing persons with severe disabilities under the auspices of the Javits-Wagner-O'Day Act.

I appreciate the opportunity to be here today to talk to you about the need for increased funding for the Committee for Purchase from the Blind and Other Severely Handicapped, which I will refer to as the statutory Committee.

BACKGROUND

I would first like to give you some general background information about the program and the role of NISH. The Javits-Wagner-O'Day Act, or JWOD Act as it is frequently called, established a special procurement program under which the federal government purchases goods and services from sheltered workshops for blind persons and other persons with severe disabilities. First enacted as the Wagner-O'Day Act in 1938, it was intended to provide sheltered employment opportunities for blind workers. Those opportunities were extended in 1971 to "other severely handicapped" persons with the passage of Public Law 92-28 or the Javits-Wagner-O'Day Act.

NISH was organized with Congressional support in 1974. Its establishment was supported by a coalition of national agencies long connected with serving individuals with severe disabilities. They are:

Association for Retarded Citizens of the United States;
Goodwill Industries of America;
National Association of Jewish Vocational Services;
National Association of Rehabilitation Facilities;
National Easter Seal Society;
United Cerebral Palsy Associations.

Representatives of these agencies serve on the NISH Board of

Directors to this day, and--along with the other Board members--set the policy and practice for NISH.

From the beginning, NISH's responsibilities have not varied. They are:

- To conduct research and development and to identify commodities and services which are feasible for sheltered workshops to provide the government;
- To provide technical assistance in the form of industrial engineering, production planning, quality control, inventory management, manpower allocation, cost analysis, pricing, procurement, contract administration and regulatory processing; and
- To represent the workshops for "the other severely handicapped" persons before the Committee for Purchase from the Blind and Other Severely Handicapped.

The establishment of NISH in 1974 was a key factor in increasing the participation of workshops for the "other severely handicapped" persons in the JWOD program. Prior to 1974, only a handful of nonblind workshops had taken advantage of the contracting opportunities available through this legislation.

With the technical expertise NISH has provided, there are now over 12,000 persons with severe disabilities employed in 241 producing workshops in 48 states, the District of Columbia and Puerto Rico. I have been part of this program from the beginning, and these figures are especially gratifying to me, but there is a tremendous unmet need which still faces us.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED NEEDS INCREASED FUNDING:

My main reason for being here today is the need to increase the appropriations for the statutory Committee. While we at NISH provide technical support, under the law, only the statutory Committee has the authority to approve the procurements which provide the employment opportunities we have discussed. To help meet this need, both of the central nonprofit agencies, National Industries for the Blind and NISH, strongly support an increase of at least $50,000 over the President's budget request for FY 1988 to assist the Committee in meeting the needs of the community.

It is the responsibility of the statutory Committee to

administer the program created by the JWOD Act. For almost 50 years, this unique and highly successful program has provided quality goods and services to the federal government at a fair market price, while providing quality employment to the persons served by the program. Today it remains one of the least costly federal programs--serving over 16,000 blind and other persons with severe disabilities--at a cost of approximately $42 per person.

The role of the statutory Committee in creating job opportunities for blind and other persons with severe disabilities is critical. Workshops are nonprofit organizations and, as such, they are limited in the government contracting opportunities available to them. JWOD procurements are particularly important to them because they offer stable employment opportunities for their employees with severe disabilities. This brings me to the reason why NISH feels so strongly about increased funding for the statutory Committee. NISH's role in this program is extensive, but limited. NISH finds products and services purchased by the federal government that appear suitable for production by workshops, analyzes them thoroughly to ensure that their production is technically feasible, and that they will do what they are intended to do--that is, provide meaningful jobs for persons with severe disabilities. After NISH has completed its analysis, it provides a recommendation to the statutory Committee.

Only the statutory Committee has the responsibility and authority to determine what goods or services will be produced by the workshops under the program. In making this determination, the staff and members of the statutory Committee must consider a multitude of factors, including the workshop's capability to produce the item, whether the workshop meets the requirements as a nonprofit agency serving persons with severe disabilities, whether it can meet all quality standards and delivery schedules, what price would be charged, whether there is a serious adverse impact on industry, and comments from the public.

Add to these responsibilities an important time factor. The entire process--including NISH's role and the statutory Committee's--can easily take more than one year. Under the best of circumstances, if everything is in order, the item can be approved for purchase from a workshop at the end of that process. But the procuring agency buying the items in question does not base their procurement schedule on our needs. They must buy items in time to meet their own stockage or service requirements. As a result, if the statutory Committee's processing is behind schedule, we lose the job opportunities not just for a week or a month, we lose them for an entire year, until the next purchase is made. And since the price must generally be based on the price of the previous purchase, our calculations and processing must start from scratch if we miss this window of opportunity.

With all of the workshops throughout the United States, including more than a 1,000 associated with NISH who are actively seeking their first contract under this program, the workload on the statutory Committee has increased tremendously over the last few years. And yet despite this growth, the statutory Committee has had only 12 full-time staff positions since 1979. During that time frame, the number of items on the Procurement List has increased by 91 percent and the number of producing workshops has increased by 83 percent.

Program growth, however, is not the only reason for the additional administrative burden. In recent years, one Washington law firm has made the JWOD program the focus of its energy and attention. The persistent challenges of this law firm, its numerous requests for information under the Freedom of Information Act, and ongoing legal proceedings have had a serious impact on this extremely small federal agency and its staff of only 12. Its effect on the JWOD program itself has been equally damaging. By drastically slowing the process of adding commodities and services to the Procurement List, some contracts are lost before they can be approved for production. This

directly translates to a loss of new job opportunities for persons with severe disabilities.

We are recommending only a modest increase over the President's budget request, but we believe it will yield positive and cost-effective benefits. An increase of only $50,000 would alleviate much of the administrative burden and enhance staff capacity to process projects and thereby employ greater numbers of persons with severe disabilities.

Employment is a critical need among this segment of the population. The 1980 census found that 67 percent of working age adults with disabilities were unemployed. This high rate of unemployment is even more devastating for persons with severe disabilities who are unable to work in the competitive marketplace. No other segment of society has greater employment needs, and I, therefore, urge the members of this Subcommittee to consider favorably our request for increased appropriations.

AFFIRMATIVE ACTION

There is one other subject that I would like to address briefly today because it is something I am very proud of--NISH's Affirmative Action Program. At NISH, we practice what we preach.

Forty-two percent of the NISH staff meets the government's definition of persons with disabilities. Thirteen of our staff of 91 meet the most restrictive government definition of persons with disabilities. While less than 6 percent of the total working age population in the nation fall into this most restrictive disability group, more than 14 percent of the NISH staff fall into this category. If NISH were a federal agency it would rank third in order of agencies with the greatest number of persons with disabilities in the most restrictive category.

Last year in hearings before the House Subcommittee on Treasury, Postal Service and General Government, an organization that is not familiar with our policies testified that NISH should

be a "model employer" for "severely handicapped" persons. We did not have an opportunity to respond then, but just in case this subject should come up again, we want you to know that we are a model employer in hiring persons with disabilities and we are proud of our record!

"Severely handicapped" refers to persons whose mental or physical disability is so severe that they are prevented from engaging in normal competitve employment. Consequently, once they are employed in the competitive labor market, they are no longer considered "severely handicapped." Thus, the persons employed on the NISH staff are NOT "severely handicapped" while the persons employed in the workshops are.

WHO ARE THE "OTHER SEVERELY HANDICAPPED" PERSONS?

This raises one final point which often causes confusion. Who are the "severely handicapped" persons employed in NISH workshops? This point is central to an understanding of our program. The persons employed in our workshops are not just persons with disabilities, they are persons with severe disabilities. Almost 80 percent are mentally retarded. Others have various types of developmental disabilities. Many have multiple disabilities, but all meet the legal definition of "severely handicapped."

NISH strongly promotes upward mobility for these individuals, and we are proud of what we have accomplished. Last year more than 1,000 persons with severe disabilities moved on to employment in the commercial sector using the skills they learned on JWOD contracts. In addition, more than 800 were promoted within the workshops. In spite of these accomplishments, however, there are some realistic limitations that must be recognized. Many of these individuals, because of the severity and nature of their disabilities, will be unable to be competitively employed or work in management. The JWOD program at least gives them the opportunity to realize their potential.

In closing, I would like to return to my main reason for

being here today--the need for increasing the appropriations of the statutory Committee. As I have said earlier, this funding will help in providing more employment opportunities for persons with severe disabilities.

I would like to leave you with a more personal sense of what these work opportunities really mean. This week at our NISH national conference in Albuquerque, we presented an award to our "Handicapped Worker of the Year." I think Charlotte's story will help you better understand what the JWOD program means to its beneficiaries.

Charlotte was born with cerebral palsy and spastic quadriplegia with athetosis. Her disabilities have caused her to have an impaired speech pattern, poor handwriting and impaired fine and gross motor dexterity which contributed to low productivity. Many persons with Charlotte's severe disabilities would never seek employment, but Charlotte was fortunate to have a supportive family and access to job training through a local workshop.

Her progress has sometimes been slow because of her disabilities, but she has learned to operate sophisticated equipment with the use of her index and middle fingers and the palm of her hand. Charlotte has been earning minimum wages and above for the past six years and has earned progressive raises.

In 1984, Charlotte began working as a key operator on one of the workshop's JWOD contracts at the Bureau of Engraving and Printing in Washington, D.C. This involves the processing of mail order sales of souvenir and collectors' items such as framed sheets of uncut currency.

When I asked Charlotte about her job, she beamed, and told me about her increased opportunities for independence and her chance to learn new things. She told me that training at the workshop made it possible for her to work at the computer.

Charlotte's work on this JWOD contract has allowed her to work in a regular office environment. It has given her the

opportunity for interaction with the public which she enjoys, and more importantly, it has given her an opportunity for independent living. Since beginning work on this contract, Charlotte has been able to move into a home in Arlington which she shares with three other adults and a housemother.

Despite Charlotte's many accomplishments, it's unlikely Charlotte could walk into a commercial business and expect to have a fighting chance for employment. The JWOD program gives her that chance.

The statutory Committee has a budget that is miniscule compared to most federal agencies and yet the value of its program in human terms is enormous. The small increase we are asking for will help to alleviate some of the backlog in meeting the large demand which remains.

I urge your favorable consideration of the funding we have proposed. I am speaking today for myself, for NISH, for the national agencies I mentioned before who serve on the Board of NISH, for the 12,000 persons with severe disabilities currently served, and--mostly--for the many more thousands who are awaiting the opportunities this program could provide them if the statutory Committee is properly funded.

STATEMENT OF RAYMOND HO, EXECUTIVE DIRECTOR, MARYLAND PUBLIC TV, MARYLAND CENTER FOR PUBLIC BROADCASTING

PREPARED STATEMENT

Senator MIKULSKI. Now we would like to call Mr. Raymond Ho, the executive director of the Maryland Center for Public Broadcasting.

He will be testifying on the fiscal year 1988 budget request for revenue foregone, postal subsidies which have been targeted for elimination by the administration.

Mr. Ho. Madam Chairman, I am very pleased to have the opportunity to appear before you today on behalf of Maryland Public Television, and my fellow public broadcasters throughout the Nation.

I would just like to present a brief summary of the written testimony that is already in front of you. The issue of the postal rate subsidy——

Senator MIKULSKI. Excuse me, Mr. Ho. We will welcome your entire statement, and place it in the record.

[The statement follows:]

NATION'S PUBLIC BROADCASTERS URGE CONGRESS TO KEEP POSTAL SUBSIDY FOR NONPROFIT GROUPS

WASHINGTON, DC (April 10)—Maryland Public Television President Raymond K.K. Ho strongly urged Congress today to reject an administration proposal to eliminate the postal subsidy for nonprofit organizations.

In remarks prepared for delivery to the Senate Subcommittee on Treasury, Postal Service, and General Government, Ho said the Nation's public broadcasters depend on the mails as a lifeline to members, donors, and corporate supporters.

"It is important that we have access to reasonable rates if we are to fulfill our mission to provide educational, cultural, and informational programs to our viewers both at home and in the classrooms," Ho said.

Ho noted that public broadcasters make use of the postal subsidy in the distribution of program guides, fundraising letters and followups, teacher guides, educational tapes, and other material.

"Loss of the nonprofit Federal postal rate subsidy would deal a crippling blow to our efforts to keep our members informed about the programs they have helped purchase," he testified.

Citing statistics compiled by the National Association of Public Television Stations [NAPTS], Ho said the administration proposal would cost the Nation's public broadcasters $6 million in additional postal expenses. The added costs, he said, would force "some hard choices in programming schedules and educational services" since sources of additional revenue are limited.

Noting that public broadcasters have reached the saturation point in on-air fundraising, Ho cited the irony in this latest challenge to the health of the industry.

"At the same time the Federal Government is encouraging public broadcasting to become more self-sufficient, we are faced with a dramatic increase in one of the most efficient ways for us to raise funds—through direct mail," he said.

Ho said the postal rate subsidy helps make possible MPT's annual distribution of 660,000 program guides, 750,000 fundraising and other letters, and 15,000 teacher guides, educational tapes, and informational mailings.

Calling the move to eliminate the subsidy penny wise and pound foolish, Ho urged Congress to keep postal rates at a reasonable level for nonprofit organizations like the Nation's public television stations.

"I urge you to again reject the proposal to eliminate the subsidy. An increase in the nonprofit postal rates would make it more difficult to afford the kind of aggressive fundraising that public television stations must do just to stay alive," Ho said.

Mr. Ho. Thank you very much. The issue of the postal rate subsidy is of critical importance to us, and I want to thank you in advance for the support your subcommittee has demonstrated on this issue in recent years.

We, in public broadcasting, depend on the postal service as a lifeline to our many constituents, members, major donors, and corporate underwriters.

It is important that public broadcasters have access to reasonable rates, if we are to fulfill our mission to provide educational, cultural, and informational programs to the American public, both at home and in the classrooms.

Incidentally, just for your information, each week, over 100 million Americans now are using public broadcasting.

Program guides, like the ones that I have distributed in front of you, are a crucial element in reaching and retaining our members. Loss of the nonprofit Federal postal subsidy would deal a crippling blow to our efforts to keep our members informed about the programs they have helped purchase.

While on-air fundraising is still the key to attracting new members, it must be accompanied by consistent followup through the mails for them to fulfill their pledge, to renew, and to upgrade their subscription.

Besides our own signal, the mails provide us with the only viable avenue to communicate with the many publics we serve. This mail communication is essential to converting the public's appreciation of public broadcasting into directly financial support.

At Maryland Public Television, and across the Nation, support from individual members is now the fastest growing, and the most reliable sector of our income.

Now part of this is due to the increased support from loyal viewers in response to the past Federal budget cutbacks, and part of it is due to the more sophisticated, direct mail fundraising techniques.

I cannot help but see the irony in this latest challenge to public broadcasters. At the same time the Federal Government is encouraging us to become more self-sufficient, we are faced with a dramatic increase in one of the most efficient ways for us to raise funds through direct mail.

If the postal subsidy is wiped out, a sproposed in the administration's 1988 fiscal budget, public television stations would face a 50-percent increase in postal rates, and untold escalating costs in the years to come.

The estimated $6 million in additional postal expenses would cause some hard choices in programming schedules and educational services at local stations.

If the additional costs do not come out of current budgets, what choice do we have? Can we increase our on-air membership drives?

To do so would be to cut our own throats. In Maryland, for example, we are already on the air 45 days a year, fundraising. That is 1 month and a half a year, and that is too much.

In response to view requests, I have trimmed 3 days off our last festival. The result was our most successful pledge drive to date, but we could not have done that without a related direct mail campaign.

If the postal subsidy is eliminated, will the Federal Government make up the difference some place else? I think you know the answer to that question, and it is a constant battle in public broadcasting just to maintain the status quo.

And we cannot expect State support to bridge this gap either. Maryland Public Television received just a 1.5-percent increase in our operating budget from the State for the next fiscal year, not even enough to cover the current lower rate of inflation.

Maryland Public Television operates in a six-State area including Maryland, but also portions of Delaware, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

We currently mail out more than 660,000 program guides each year, and this number is increasing as we attract new members, and we use third-class mail to mail out these guides.

The bulk nonprofit rate is key to our sending out more than three-quarters of 1 million pieces of mail this coming year, mail that——

Senator MIKULSKI. You have about 3 more minutes.

Mr. HO [continuing]. Mail that includes fundraising letters, followup letters, and informational material. And last year we also sent out thousands of teacher guides, and I have passed out one in front of you. And also, educational tapes and other materials that help us fulfill our mission to assist the public schools throughout the State.

These are part of the 15,000 pieces of mail we will send out at the 4th class rate. Now public broadcasters are painfully aware of the fiscal restraints caused by Federal budget deficits, and by the outcry against higher taxes. But it seems to me that elimination of the postal subsidy would be pennywise and pound foolish.

By keeping postal rates at a reasonable level for nonprofit organizations like public broadcasters, we are able to increase our outreach not only to the public, but also, to the corporate community.

For example, we are now sending out on a regular basis a business update to let current and potential corporate friends know about underwriting possibilities.

We also added an associates' newsletter to keep our major donors informed and involved, and news releases and other mailings to the press are on the rise, because as a statewide network and a producer of national programs such as "Wall Street Week," this is the most cost-effective way for us to inform viewers of our programs, short of the prohibitive cost of advertising.

Now all this adds up to 1.5 million pieces of mail over the course of the coming year. The cost is in the neighborhood of $200,000.

It is easy to see what the loss of the subsidy would mean to Maryland Public Television, and projected across the nation, to public broadcasters everywhere.

I urge you to reject the proposal to eliminate the subsidy. An increase in the nonprofit postal rates would make it more difficult to afford the kind of aggressive fundraising that public television stations must do just to stay alive.

Madam Chairman, I thank you for the opportunity to appear before you today, and I look forward to your continued support.

Senator MIKULSKI. Thank you, Mr. Ho, for that testimony. It is a refreshingly different prospective on revenue foregone from the nonprofit organizations, and we welcome the insights you have provided. Thank you.

Mr. HO. Thank you.

STATEMENT OF G.W. McDONALD, CHAIRMAN, SPECIAL PROJECTS COMMITTEE, NORTH AMERICAN SECURITIES ADMINISTRATORS' ASSOCIATION

Senator MIKULSKI. Our next witness will be G.W. McDonald, chair, Special Projects Committee, the North American Securities Administrations' Association.

He will be testifying on the budget request for IRS.

Mr. MCDONALD. Good morning, Senator. I appreciate the opportunity to be here. My name is G.W. McDonald. I am the principal liaison officer between the North American Securities Administrators' Association, and the Internal Revenue Service.

I have submitted a fairly lengthy statement for the record, and I would just like to highlight a couple of points about abuse of tax shelters, and their effect on the economy, and the relationship of the States and the IRS in that regard.

Senator, the biggest problem about abuse of tax shelters is that they take revenue out of the public treasury and they produce no benefit to the economy.

They take money that could be used for legitimate investment opportunities and put it in the pockets of unscrupulous promoters.

In my State of California we have a huge tax shelter problem. Of the 425,000 income-tax returns under examination by the IRS for abuse of tax shelter deductions, 30 percent are from my State of California.

So I have been very active in coordinating with IRS, both in California, and in my capacity as a representative of the North American Securities Administrators' Association. As you know, Senator, each district director's office has a tax shelter coordinator, and what we have tried to do is encourage the securities representatives in each State to get to know their district director-coordinator, and to work together to stop abuse of tax shelters at the local level.

We have had some notable successes. The Congress has, in its wisdom, given the Internal Revenue Service some front-end opportunities that they never had before in the Tax Equity and Fiscal Reform Act of 3 or 4 years ago, such that now the district director's offices are bringing injunctive actions and criminal actions against tax shelters in the current year, rather than 3, 4, or 5 years behind, as they were before.

And so there is now an incentive for the State securities regulators to coordinate with them. I would like to debunk one myth that is in the land, which is that the Tax Reform Act of 1986 killed tax shelters.

I have heard two or three of my colleagues even say that in the last couple of days, and I would like to state, as strongly as I can, that that is simply not the case.

The Internal Revenue Code is replete with opportunities for abuse of tax shelters, and I assure you that the accountants and the attorneys for the abusive tax shelter promoter are aware of them and are going to be utilizing them.

In my own State, the energy investment tax credit is a huge problem. If you have driven from Los Angeles to Palm Springs, you have seen windmills, by the thousands, on the side of the road, on the hills, and every one of those windmills is a tax shelter for somebody.

In fact we call them tax-shelter farms rather than windmill farms. And solar power energy, and ocean energy, and biomass, and geothermal. I mean, the list is endless. The limitation on losses from passive investments.

We are seeing a proliferation of general partnerships with nonmanaging general partners to create the illusion of participation and to get around the tax laws.

Depreciation. There is still a fast writeoff for films, videotapes, sound recordings, planes, racehorses, semiconductors. Credits. There are still credits for rehabilitation of historical buildings. Low-income housing, research and development.

So the message that I have for you today, Senator, is that the abuse of tax shelters is not dead, that the IRS needs to continue to work against abuse of tax shelters, and needs to coordinate with the States in that regard.

They have made significant progress, and the Congress has given them the tools to do it, but I fear that this myth in the land, that tax shelters are dead, is going to result in a decrease in the enforcement activity of the IRS in the tax shelter area, and I urge the Senate to urge the IRS to continue their efforts in that regard.

PREPARED STATEMENT

I thank you very much for your attention, Senator, and if you have any questions, I would be happy to answer them.

[The statement follows:]

STATEMENT OF G.W. MCDONALD

NASAA, the North American Securities Administrators Association, appreciates the opportunity to appear before this Subcommittee in connection with hearings on the proposed Internal Revenue Service (IRS) Budget for fiscal year 1988. NASAA is a 69 year old association of the 65 state and provincial securities administrators from the United States, Canada and Mexico. Individually, we are charged with the responsibility for administering and enforcing securities laws within our various jurisdictions. Collectively, the members of NASAA work to maintain the integrity of the securities marketplace, to protect investors, and to curb abuses in the offer and sale of securities.

My name is Bill McDonald, and I am triply grateful for the opportunity to be here.

First, I spent four years in the Los Angeles Office of Regional Counsel of the IRS and handled hundreds of cases before the Tax Court as counsel representing the Commissioner of Internal Revenue. During my tenure with IRS, I was deeply impressed by the professionalism and fairness of that much-maligned group of employees who work for the IRS. I can still recall being able to clear a cocktail party by announcing the nature of my employment in those days. I retain a deep respect for the IRS and the integrity with which it fulfills its statutory duties.

Secondly, my position for the past seven years as Assistant Commissioner in charge of the Enforcement Division of the California Department of Corporations has provided me with a unique opportunity to witness the interrelationship of the tax laws and the securities laws.

I noted recently with some dismay but not much surprise that of the 425,000 tax returns under examination by the IRS for

abusive tax shelter deductions, some 30% are from California taxpayers. I guess we in California retain enough of a frontier mentality to still think of it as the land of opportunity, and the allure of some of the tax shelter offerings that abound in California is irresistable to many.

The Department of Corporations is charged with administering and enforcing the state's securities law in California, and the great majority of tax shelters involve securities offerings in the form of limited partnerships, evidences of indebtedness, profit sharing agreements or investment contracts. During the past year, we have worked over 100 tax shelter cases in California with offerings ranging from oil and gas to real estate, research and development, solar and wind energy, mining, precious and strategic metals, equipment leasing, agriculture, livestock, films, plays, recordings and cable TV.

If you have been on the road from Los Angeles to Palm Springs recently, you cannot have missed the literally thousands of windmills on the adjacent hills, enough to make Don Quixote think that an army of giants was arrayed against him. We lovingly refer to these projects as "tax shelter farms," about which I will have more to say a bit later.

My third reason for being happy to be here, Mr. Chairman, is in my capacity as Chair of the Special Projects Committee of NASAA and, for the last three years, the NASAA member with primary responsibility for liaison with the IRS. I would like to report to you on the efforts the IRS and the states have made to attack the problem of abusive tax shelters through cooperation and the seeking of common ground as we fulfill our respective responsibilities.

By way of background, the close cooperation that has developed between NASAA and the IRS in recent years did not

always exist. Traditionally, the IRS audit program was always three to five years behind the current year. Because of shorter statutes of limitations applicable to securities law violations, and less ability to force potential defendants to execute waivers of the statute of limitations, securities administrators have always focused on current or recent year offerings and had little incentive to cooperate with the IRS in the tax shelter area. This problem was compounded by disclosure restrictions which made the exchange of information a one-way street from the states to the IRS.

With the passage of the Tax Equity and Fiscal Responsibility Act (TEFRA) in 1982, the whole tax shelter equation changed dramatically. That legislation provided for civil penalties against promoters in the current year, and granted the IRS the authority to obtain injunctions against such promoters to stop further promotion activity. Penalties apply when a promoter's advice about the tax benefit of an offering includes information that the promoter knows or should know is false or fraudulent. The promoter is also liable when the value of the offering is grossly overstated.

The IRS has also utilized a prefiling notification to investors advising them that, based upon a review of the promotion, the IRS believes that the associated tax deductions and credits are not allowable. The notification further advised that the return would be audited if the deductions or credits were claimed.

In each IRS District Director's office a tax shelter coordinator has been designated. A committee of district representatives with legal, criminal, and auditing experience reviews prospectuses and related materials gathered by the coordinator. The committee considers the specific offering, the promoters track record, and any national impact the promotion

might have. Books and records may be requested from the promoter. A summons may be issued and enforced if voluntary compliance is not forthcoming.

The criteria for determining whether a tax shelter is abusive, whether a promoter's civil penalty under IRC Section 6700 is appropriate, whether investors should receive prefiling notification, and whether injunctive relief under IRC Section 7408 should be sought include a clearly over-valued asset, false or fraudulent statements, and the aberrational use of accounting formulae or principles.

In 1984, Congress enacted the Tax Reform Act of 1984 which requires tax shelter organizers to register shelters with the IRS and requires investors to list their shelter's IRS registration numbers on their tax returns. It requires promoters to maintain lists of investors for inspection by IRS. It doubles the 10 percent penalty for those who participate in abusive shelters. It sets an interest rate of 120 percent of the going IRS rate for tax underpayments attributable to certain types of abusive schemes.

More recently, the law has allowed a selective freezing of taxpayer refunds if tax shelter deductions are present.

The effect of all of these changes at the federal level is to enhance the ability of state securities regulators to establish fraud while the offering is still in its early stages and to get the cooperation of investors. States can work together and can work with the IRS, on those cases in which it has gone public, to identify abusive tax shelters and to try to stop them before their sales program is completed.

In the states as well as at the federal level, tax shelters are recognized as a significant securities problem, and one that costs the states millions of dollars in lost tax revenues while

producing no appreciable benefit to the economy. Arizona was able to get legislative approval for a special tax shelter unit within its Securities Division, and a number of other states are considering seeking increments in their securities department staffs to focus on the tax shelter area. Tax shelter cases are frequently complex and require considerable investigative effort and examining work to establish the lack of economic reality of the transaction and the fraud in the offering materials.

The TEFRA program and increased activity by the states in tax shelter enforcement has, to some degree, diminished the attractiveness of tax shelters by increasing the chances for an investigation by state securities regulators or an audit by state or federal taxing authorities. But state taxing authorities traditionally follow the lead of the IRS in auditing tax shelters, and the IRS only audits a small number of such programs.

If there is going to be an effective enforcement effort in the tax shelter area, the state securities laws and the state securities administrators have the best chance of getting it done, and the assistance of the IRS can be of critical importance in that regard. The states can move quickly based upon as little documentation as a set of the offering materials, and can take swift preventive action before the program collects large sums of money from unwary or misguided investors.

The state securities regulators have staffs of attorneys, investigators and examiners who are trained to gather the evidence necessary to show overvaluation, lack of economic reality, nonexistence of the underlying product or service, and misrepresentation and omissions of material fact in connection with the offering. These agencies have the authority to issue administrative orders, obtain injunctions with ancillary relief such as a receiver, an accounting, a freeze of funds, resti-

tution, civil penalties, etc., and can, in appropriate cases, refer the matter to local district attorneys for criminal prosecution and provide expert witnesses, jury instructions, points and authorities or co-counsel assistance at the request of the district attorney.

In this effort, cooperation between the states and the IRS has proven to be singularly useful. NASAA has encouraged each state securities regulator to first identify his or her abusive tax shelter cases by focusing on sales pitches and offering materials which emphasize the tax advantages of the offering rather than any potential profitability.

We have then encouraged each state to establish a relationship with the local District Director Tax Shelter Coordinator so that they can work together on determining local priorities in tax shelter cases and the most effective means of coordination. After all, the kinds of cases that would be of interest in Omaha are inevitably going to be different from the kinds of cases that are of interest in Los Angeles. These relationships at the local level have proven to be much more effective and resilient than any attempts at nationwide coordination of effort.

The IRS has expressed interest in obtaining offering materials on new tax shelter offerings at the earliest possible time, and the states can be very helpful in that regard since we see them relatively early on in the offering.
However, I must tell you that the great majority of tax shelter offerings are sold as so-called private offerings pursuant to Regulation D under the Securities Act of 1933 and comparable state limited offering exemptions. The misuse and abuse of private placement exemptions by tax shelter promoters who don't want their offerings scrutinized by state or federal securities regulators is a major problem of its own.

As the IRS goes public with actions under TEFRA, the traditional one-way street mandated by IRS disclosure restrictions will presumably not be as much of a problem as it has been in the past. The securities administrator and District Director Tax Shelter Coordinator can work together on tax shelter cases in which the IRS has gone public so as to have a maximum preventive impact on as many offerings as possible before they get well underway. The District Director Coordinator can hopefully share technical assistance such as expert testimony or appraisal or valuation information with the securities administrator, subject to the restrictions under IRC Section 6103, which prohibits IRS disclosure of taxpayer information.

In this regard, Mr. Chairman, I must tell you that the IRS takes an extremely broad view of what is taxpayer information, and is extremely reluctant to disclose any information about tax shelter offerings until after it has gone public, and then only to the extent of the public action. I cannot understand why a set of offering materials or other information obtained from a promoter or third party is deemed taxpayer information when it does not derive from or relate to a particular return.

Also, I cannot understand the logic of having a Tax Shelter Registration Program and then determining that the very fact of registration or nonregistration is taxpayer information and therefore not available to the states. At the request of IRS, NASAA circulated materials on the Tax Shelter Registration Program to the states with a request that a requirement of disclosure of the tax shelter registration number or of reasons why such registration was not necessary be an ordinary part of the review of tax shelter offerings by securities administrators. Yet, in a recent criminal case in California in which we alleged the failure to disclose the fact of nonregistration as an act of fraud, we could not get a certificate of nonfiling from the IRS because that was deemed taxpayer information.

But to go on with some of the areas in which we have been cooperating effectively, NASAA has, as I indicated, distributed materials on TEFRA and lists of local tax shelter coordinators to the states, has encouraged bridges to be built locally, and has educated the states on the Tax Shelter Registration program.

We are also on the distribution list for press releases by the Department of Justice on Abusive Tax Shelter cases which it brings, and we routinely forward them to the securities regulators in the states in which the tax shelter is located for such coordination and follow-up as they deem appropriate.

The states acting individually and through the Special Projects Committee have brought a number of multi-state actions against abusive tax shelters, and have cooperated fully with the IRS in their requests for information on the actions so that they can do the appropriate tax follow-up.

One of the realities of tax shelter enforcement is that the investors frequently do not perceive themselves as victims and view any action against the tax shelter with suspicion and hostility. Often it takes the IRS disallowance of the deductions to convince the investors that the game is over and that their best chance of recovering some value from their investment is to cooperate with the regulatory authorities rather than the promoters.

Unfortunately, one of the lingering areas of disagreement between the IRS and the states relate to state receivership actions in which some assets have been marshalled, and a distribution to investors is scheduled, only to have the IRS slap a tax lien on the assets for tax delinquencies by the promoter. The IRS has taken the position that it must, by law, go after all available assets of the promoter to satisfy tax delinquencies, and that the only avenue the states can pursue in maintaining

those assets for distribution to defrauded investors is to trace all funds back to investors and show that state fraud statutes create a constructive trust for the benefit of those investors. That is a difficult burden, and we urge the IRS to be more flexible in its application of that policy.

At this point, Mr. Chairman, you may be saying "I thought we killed tax shelters last year. Aren't all these problems just going to go away next January 1."

Well, I must tell you that there is a myth in the land on that subject. There has been a lot of rhetoric about the Tax Reform Act of 1986 closing loopholes and tightening up on tax shelter deductions, but the problem is expected to remain a significant one for years to come in the following areas:

1. The regular investment tax credit is to be repealed, but with major exceptions for property covered by the transition rules, and a long transition period;

2. the special energy investment tax credit is retained for solar, biomass, wind, ocean, and geothermal investments investments, which have been a major source of abusive tax shelters;

3. the limitation on losses from passive investments has a long transition period, does not apply to oil and gas interests, and is already resulting in a proliferation of purported General Partnerships where the "material participation" of the "nonmanaging General Partners" is illusory;

4. as to depreciation deductions, a fast write-off has been retained for films, video-tapes, sound recordings, air-planes, race horses, semi-conductors, and other invest-ments;

5. credits will be retained for rehabilitation of historic buildings, construction or acquisition of low income housing, and for research and development expenses.

With all these loopholes retained in the tax laws, and with the long transition period for many of the loopholes being closed, we expect to have to devote significant resources to the problem of abusive tax shelters for the foreseeable future, and the IRS must be given the tools to work down their inventory of existing tax shelter cases and to keep the pressure on abusive tax shelters that are still available.

From California, I would just like to cite two examples of tax shelter cases that will be just as likely to occur next year as they were last year.

In the case of a Foster City, California promoter selling solar power modules together with management contracts, my department was able to obtain a permanent injunction by summary judgment after establishing that the defendants sold $90,000,000 worth of the contracts to over 3,000 investors. We proved that the solar power modules didn't work, weren't hooked up to the local power company, weren't separately metered, and that payments, allegedly from the sale of power generated by their solar power modules to the power company, which investors were using to prove the economic reality of the tax shelter scheme, were merely a return of part of their own money by the promoter.

Congress created investment tax credits for alternative energy sources for the laudable purpose of encouraging the development of those sources, but I must tell you, Mr. Chairman, that it is an area of great abuse. Some of the windmills that I referred to earlier between Los Angeles and Palm Springs have dozens of people who think they own them and are taking the same credits and deductions on them.

We also recently obtained an injunction against a company allegedly engaging in selling limited partnership interests for the purpose of rehabilitating historical landmarks for tax shelter purposes. Eighteen limited partnerships collected $45,000,000 in investor funds and almost none of it was spent on rehabilitation work. Rather it was diverted to the promoters pocket and to other uses unrelated to the purpose for which the money was collected.

In short, Mr. Chairman, abusive tax shelters will remain with us so long as the tax laws are used for social and economic purposes other than the collection of revenue. We in the securities industry are not in the business of enforcing the tax laws. Our job is to try to create an investment marketplace in which people can risk some capital to try to make a good profit, and hopefully to produce some added value to the economy. The IRS and the states are in the front lines in going after abusive tax shelters, which produce no benefit to the economy, which cost an estimated 4 billion dollars a year in lost tax revenues to the federal government, and which bring the tax laws into public disrepute.

NASAA urges the Congress to support the IRS effort against abusive tax shelters and to encourage the removal of unnecessary roadblocks to that cooperation. We stand ready to provide any assistance we can in furthering these objectives.

Thank you for your kind attention, Mr. Chairman. If you or the members of the Subcommittee have any questions, I would be happy to try to answer them.

Senator MIKULSKI. Well, thank you, Mr. McDonald. I think you have provided some very important additional information, and you are talking about adequate funding for IRS to do its job, and then you are specifically talking about the tax-shelter coordinator that is in each district. Is that correct?

Mr. MCDONALD. Yes, Senator.

Senator MIKULSKI. And that tax-shelter coordinator is supposed to be surveying the landscape for these boondoggle tax shelters. Is that correct?

Mr. MCDONALD. Every district has a tax-shelter coordinator, and you know, the priorities of the tax-shelter coordinator in Omaha are going to be very different than the priorities of the tax-shelter coordinator in Los Angeles.

So it is very important for us and the States to coordinate at the local level, because the tax shelter problem is really regional, and, you know, what will sell in Los Angeles is different than what will sell in Baltimore.

But the tax-shelter promoters sell what the local citizenry will buy in the tax-shelter area, and that is why the local coordination is so very important.

Senator MIKULSKI. Yes; we are race horses in Maryland, I think. Well, thank you very much, Mr. McDonald.

Mr. MCDONALD. Thank you for your kind attention, Senator.

STATEMENT OF JAMES W. WELLS, IMMEDIATE PAST PRESIDENT, GENERAL COUNCIL OF WORKSHOPS FOR THE BLIND

Senator MIKULSKI. We would like now to call Mr. James W. Wells, the immediate past president of the General Council of Workshops for the Blind.

He will be testifying, as did Ms. Villines, on the Javits-Wagner-O'Day Act. Am I correct, Mr. Wells?

Mr. WELLS. That is correct, Senator.

Thank you, Madam Chairman. My name is James W. Wells, and I am the president of the Raleigh Lions Clinic for the Blind, located in Raleigh, NC.

I have worked with Raleigh Lions Clinic for the Blind for the past 16 years. I am here today as its immediate past president, to testify on behalf of the General Council of Workshops for the Blind.

The general council is composed of 81 rehabilitation facilities which operate 105 industrial employment programs throughout the United States, the District of Columbia, and Puerto Rico.

Most of these facilities are qualified to produce commodities, or provide services for the Federal Government as authorized by the Javits-Wagner-O'Day Act, and each is associated with National Industries for the Blind, the central nonprofit agency for workshops for the blind.

During fiscal year 1986, these facilities provided special employment for more than 6,300 blind and multihandicapped blind people.

Approximately one-half of the blind people served by these facilities are multihandicapped blind individuals. The Javits-Wagner-O'Day Act has been a major factor in providing employment opportunities for blind and multihandicapped blind people who, without this act, would have had few, if any, employment options.

Each year the Committee for Purchase From the Blind and Other Severely Handicapped appears before this subcommittee. The reports presented reflect how important the Javits-Wagner-O'Day Act is in providing employment opportunities to blind and severely handicapped people.

The role that the Committee for Purchase plays is vital in creating and expanding employment opportunities.

In recent years, the workload of the Committee for Purchase has expanded tremendously. The expanded workload is largely due to an increased number of workshops participating in the Javits-Wagner-O'Day Program, and the addition of more commodities as well as services to the procurement list.

Although there has been considerable growth in the program, the Committee for Purchase's staff size has remained constant since 1979.

Coupled with the expansion of the program, the Committee for Purchase's workload has been impacted, and often diverted due to the actions of a law firm which represents a few small business government contractors.

The law firm has actively attempted to obtain information from the Committee for Purchase, the central nonprofit agencies, and the workshops themselves under the Freedom of Information Act. The information sought will, in turn, be used to forewarn the current Government suppliers about possible additions to the procurement list.

Many of their inquiries have dealt with items that are still at the research and development stage, and which might never be added to the procurement list.

Almost 90 percent of the items researched as possible additions to the procurement list are never actually added.

It should also be remembered that small business Government contractors already have a built-in protection because of the regulatory requirement for the Committee for Purchase to analyze the impact of each potential addition to the procurement list on the current or most recent suppliers.

Further, while potential additions to the procurement list are printed in the Federal Register, and any party, particularly the current or recent competitive suppliers, is given the opportunity to respond as to how the addition might affect the supplier.

The law firm's requests, however, go well beyond a reasonable notification to a competitive supplier, or possible impact. In this law firm's efforts to assist and represent certain small business Government contractors, the Javits-Wagner-O'Day Program has truly been hurt, with the real victims being the blind and severely handicapped people for whom most employment opportunities would have been provided through the Javits-Wagner-O'Day Program.

The primary role of workshops is to provide employment to blind and other severely handicapped people who cannot, or do not wish to meet the requirements of employment in the labor market, or for whom such employment opportunities are unavailable.

In most cases, the more capable the blind person who receives a prevocational evaluation, will be placed immediately into competitive industry outside of the workshop system.

Thus, the individual who is placed in the workshop often has already attempted but been denied, or does not select entry into the competitive labor force.

Those blind workers who can accept, who are interested, and who have the ability to assume positions of greater responsibility in the workshops, are encouraged to take advantage of available upward mobility opportunities.

Each workshop for the blind participating in the Javits-Wagner-O'Day Program must annually review the performance of each blind worker to determine the worker's potential for competitive placement or advancement.

Last, I strongly urge the subcommittee to appropriate funds for the Committee for Purchase From the Blind and Other Severely Handicapped at a level of $875,000 for fiscal year 1988.

This amount represents the $825,000 requested in the President's budget, and an additional $50,000 to be used by the Committee for Purchase From the Blind and Other Severely Handicapped to hire more staff to adequately fulfill its role as the administering agency for the Javits-Wagner-O'Day Program, while continuing to confront program challenges.

PREPARED STATEMENT

We thank you for the opportunity to present this testimony.

[The statement follows:]

STATEMENT OF JAMES W. WELLS

Mr. Chairman, members of the Senate Appropriations Subcommittee on Treasury, Postal Service, and General Government, my name is James W. Wells. I am the President of the Raleigh Lions Clinic for the Blind, Incorporated located in Raleigh, North Carolina. I have worked at the Raleigh Lions Clinic for the past 16 years.

I am here today to testify on behalf of the General Council of Workshops for the Blind (General Council). I am the immediate past president of the General Council. The General Council is composed of 81 rehabilitation facilities which operate 105 industrial employment programs throughout the United States, the District of Columbia, and Puerto Rico. Most of these facilities are qualified to produce commodities or provide services to the Federal Government as authorized by the Javits-Wagner-O'Day (JWOD) Act and each is associated with National Industries for the Blind (NIB), the central nonprofit agency for workshops for the blind. During Fiscal Year 1986, these facilities provided special employment for more than 6300 blind and multihandicapped blind people. Approximately one half of the blind people served by these facilities are multihandicapped blind individuals. The JWOD Act has been a major factor in providing employment opportunities for blind and multihandicapped blind people who without this Act would have had few, if any, employment options.

THE ROLE OF THE COMMITTEE FOR PURCHASE
FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

The Committee for Purchase from the Blind and Other Severely Handicapped (CPBOSH) is the Federal agency which administers the program established by the Javits-Wagner-O'Day Act. CPBOSH is comprised of fifteen Presidentially-appointed members. The daily on-going work of CPBOSH is carried out by a twelve person staff. For Fiscal Year 1986, CPBOSH received an appropriation of $778,000, with $100,000 of this amount being used for an out of court settlement. By any standards, CPBOSH is a small Federal agency operating within a modest budget. However, CPBOSH plays a vital role in ensuring employment opportunities for this nation's blind and severely

handicapped citizens. The outstanding work performed by CPBOSH is evidenced by the agency's ability to provide employment to over 16,000 blind and severely handicapped people who participated in the JWOD program during Fiscal Year 1986.

The Committee for Purchase from the Blind and Other Severely Handicapped has as some of its primary responsibilities to determine:

-Workshop qualifications to participate in the JWOD program
-Suitability of items to be added to the procurement list
-Workshop capability and capacity to produce an item
-Workshop compliance with Federal regulations, including Fair Labor Standards, Occupational Safety and Health, and JWOD
-Fair Market Price of an item, including semiannual price adjustments
-Potential industry impact on the current or most recent competitive supplier of the item to the government

In recent years, the workload of CPBOSH has expanded tremendously and, in some cases, has been diverted from its regular responsibilities due to the activities of a small law firm. The expanded workload is largely due to an increased number of workshops participating in the JWOD program and the addition of more commodities, as well as services, to the procurement list. The 1971 amendments to the JWOD Act were instrumental in permitting workshops for the other severely handicapped to participate along with workshops for the blind and for the first time services could be added to the procurement list. Thus, CPBOSH's workload has grown steadily as more and more workshops have become qualified to provide commodities and services to the government through the JWOD program.

Coupled with the expansion of the program, CPBOSH's workload has been impacted due to the actions of a law firm, which represents a few small business government contractors and which has established The National Council of Small Business Government Contractors. It is purported that the purpose of The National Council of Small Business Government Contractors is to protect the interests of competitive

suppliers to the government from perceived claims of injustices perpetuated because of the JWOD Act. The law firm has actively attempted to obtain information from CPBOSH, the central nonprofit agencies, and the workshops themselves under the Freedom of Information Act (FOIA). The information sought will, in turn, be used to forewarn the current government suppliers about possible additions to the procurement list. Many of their inquiries have dealt with items which are still at the research and development stage and which might never be added to the procurement list. Almost 90% of the items researched as possible additions to the procurement list are never actually added.

I would like to mention that the workshops and the central nonprofit agencies are not Federal agencies, and as such are not subject to FOIA requests. It should also be remembered that small business government contractors already have a built-in protection because of the regulatory requirement for CPBOSH to analyze the impact of each potential addition to the procurement list on the current or most recent suppliers. Further, potential additions to the procurement list are printed in the Federal Register and any party, particularly the current or recent competitive suppliers, is given the opportunity to respond as to how the addition might affect the supplier. The law firm's requests, however, go well beyond a reasonable notification to a competitive supplier of possible impact.

The effect of this law firm on CPBOSH and the broader JWOD program has meant valuable staff time spent on responding to an inundation of FOIA requests and on preparing for lengthy legal proceedings. The net result is that a small CPBOSH staff must spend much of its time addressing the inquiries of this law firm and that CPBOSH committee meetings are often devoted to listening to the perceived injustices of a supplier or the law firm, rather than focusing fully on the objectives of the JWOD program. The specific impact has meant that CPBOSH committee meetings, where additions to the procurement list are considered and workshop compliance is reviewed, have been curtailed. During last year, CPBOSH also had to eliminate publication of the

procurement list which notifies government agencies about items manufactured in the workshops. Less money is available to provide CPBOSH staff travel to workshops to review qualifications and compliance. The General Council feels that the Committee for Purchase from the Blind and Other Severely Handicapped is confronting a dilemma. On one hand, the law firm is challenging many actions of CPBOSH and because of the need to respond to these constant challenges, CPBOSH has limited time and funding to adequately carry out their designated responsibilities under the JWOD Act. In this law firm's effort to assist and represent certain small business government contractors, the JWOD program has truly been hurt with the real victims being the blind and severely handicapped people for whom more employment opportunities would have been provided through the program.

I strongly urge the Subcommittee to appropriate funds for the Committee for Purchase from the Blind and Other Severely Handicapped at a level of $875,000 for Fiscal Year 1988. This amount represents the $825,000 requested in the President's budget and an additional $50,000 to be used by CPBOSH to hire more staff to adequately fulfill its role as the administering agency for the JWOD program, while continuing to confront program challenges.

THE RALEIGH LIONS CLINIC

I would like to take a few minutes to talk about the Raleigh Lions Clinic (the Clinic) as an illustrative example of the vocational rehabilitation process utilized by many NIB associated agencies in their placement of blind workers. The Clinic began operation in 1967 and has evaluated and/or trained over 5000 visually impaired and blind people over the past twenty years. In addition to the workshop, which provides vitally needed employment, the Clinic provides testing, work evaluation, medical services, work adjustment training, and vocational training. The Clinic's goal is to address the needs of blind people who have not developed work skills because of their disabilities as they pursue a vocational objective. Working in cooperation with the state's Division of Services for the Blind, our aim is to vocationally

rehabilitate blind individuals and to successfully place them into competitive employment.

The evaluation unit within the Raleigh Lions Clinic is unique because it is the only evaluation facility for blind people in the entire state. The Raleigh Lions Clinic was responsible for placing 28 blind people into competitive employment during Fiscal Year 1986. In past years, referrals for basic services have been much higher and we, therefore, have competitively placed more individuals. Traditionally, state education and rehabilitation agencies have direct and primary responsibility for competitive placements. Workshops for the blind, on the other hand, have as their main focus to provide employment for blind individuals. The workshops represent one vocational option among many. As an auxiliary service, I feel that NIB associated workshops have made excellent efforts in assisting in competitive placements.

For those blind individuals who are unable to locate competitive employment or who do not desire such employment, the workshop represents a suitable alternative. It should be recognized that the most capable worker will be placed into competitive industry and will rarely, if ever, be referred to a workshop. Workshops should be viewed as desirable viable sources of employment; there are blind people who choose to work in workshops and who enjoy doing so. For example, people select workshop employment because of good wages, convenience of locale, or satisfaction of work. For some blind, and particularly multihandicapped blind people, the workshop provides, in many situations, the only employment option. Increasing numbers of severely limited blind people who have no other employment alternative are entering workshops for the blind.

The Clinic's workshop is a manufacturing facility which produces the following items for sale to the Federal government: bed pillows, ironing boards, combat equipment suspenders, military flyers bags, helmet chin straps, military snow shoe binders, and presentation folders. As a contractor for the Federal government, it is essential

that quality products are manufactured, that government specifications are met, and that prompt deliveries are made.

UPWARD MOBILITY IN WORKSHOPS FOR THE BLIND

The primary role of workshops is to provide employment to blind and other severely handicapped people who cannot or do not wish to meet the requirements of employment in the open labor market or for whom such employment opportunities are unavailable. In most cases, the more capable blind person who receives a prevocational evaluation will be placed immediately into competitive industry outside of the workshop system. Thus, the individual who is placed in the workshop often has already attempted, but been denied, or does not select entry into the competitive labor work force.

Those blind workers who can accept, who are interested, and who have the ability to assume positions of greater responsibility in the workshops are encouraged to take advantage of available upward mobility opportunities. Each workshop for the blind participating in the JWOD program must annually review the performance of each blind worker to determine the worker's potential for placement or advancement. NIB continually reviews the good faith efforts of the workshop management to achieve upward mobility of blind workers.

Additionally, NIB assists workshops in improving the production capabilities of blind and multihandicapped workers. Through its light and color research, NIB staff has increased worker productivity by creating a more suitable work environment by varying the direction and intensity of light and identifying colors with the most contrast. Other specialized services are provided to increase employability for each blind and multihandicapped blind worker.

Placement into competitive industry and movement into a supervisory or management position are two types of upward mobility for blind workers. However, there are other, equally legitimate, forms of upward mobility. Work Activities Center (WAC) clients, whose productivity is considered inconsequential and whose work is primarily

therapeutic, who move into a regular workshop should be viewed as being upwardly mobile. Although still in a sheltered work environment, such movement from a WAC to a regular workshop could be extremely significant for a severely limited blind worker.

The General Council believes that movement into an increasingly responsible position or a position requiring more skills, such as from a direct labor to an indirect labor job or from one direct labor to another direct labor job requiring greater skills, is another legitimate form of upward mobility. For a multihandicapped blind person or for a blind person with limited vocational skills such movement usually represents a great deal of commitment and tremendous effort for the worker. This type of job promotion should not be overlooked in the consideration of upward mobility. Nor should we overlook those job changes where increased wages are achieved.

In 1985, the General Council of Workshops for the Blind unanimously passed a resolution to formally support the upward mobility of blind workers. This resolution is attached for your review.

CONCLUDING REMARKS

The General Council of Workshops for the Blind appreciates the opportunity to testify before the Treasury Appropriations Subcommittee. I hope that this statement will assist in your determination of an appropriation for the Committee for Purchase from the Blind and Other Severely Handicapped and in understanding the broad concept of upward mobility for blind and handicapped people who participate in the JWOD program. I would also like to invite any of you to visit a workshop for the blind to see why the Javits-Wagner-O'Day Act is a critical piece of legislation in providing employment opportunities to blind and severely handicapped Americans.

I welcome any questions that you might have.

GENERAL COUNCIL OF WORKSHOPS FOR THE BLIND

RESOLUTION 85-1

UPWARD MOBILITY

WHEREAS, the primary function of sheltered workshops serving blind persons is to provide an alternative employment service for individuals who are unable or who do not desire to meet the requirements of employment in the open labor market or for whom such employment opportunities are unavailable; and

WHEREAS, through work evaluation, prevocational training, and the required annual evaluation of each worker's capabilities for competitive employment, qualified clients are placed into various remunerative occupations outside the sheltered workshop; and

WHEREAS, the workshops'endeavor to recognize qualified blind persons who can accept, are interested in, and have the ability to assume positions of greater authority or responsibility in the workshop; and

WHEREAS, emphasis is put on placing qualified blind persons, as each opportunity develops, in supervisory and management positions as well as advancing other blind persons to more responsible functions who for various reasons or conditions may not be able to assume a managerial or supervisory position; and

WHEREAS, The General Council of Workshops for the Blind believes that consideration must be given the more severely limited blind person who may through great effort achieve upward mobility which represents a significant step forward for that individual; and

WHEREAS, The General Council of Workshops for the Blind believes that upward mobility may be demonstrated in several ways:

1- The movement of a blind person from work evaluation, prevocational training, or on-the-job training to a position in outside competitive employment or as a worker receiving an employment service in the workshop.

2- The placement of a blind person receiving an employment service in the regular sheltered workshop program into competitive employment in the open labor market.

3- The movement of a blind person from therapeutic activities in a Work Activities Center to an employment service in the regular sheltered workshop program.

4- The movement of a blind worker from a direct or indirect labor position to another direct or indirect labor position requiring greater skill or the exercise of more judgment, decision-making, or leadership which may also result in greater earnings.

5- The movement of a blind worker from a direct or indirect labor position to a supervisory, managerial or administrative job.

THEREFORE BE IT RESOLVED that The General Council of Workshops for the Blind assembled in convention in Dallas, Texas, on May 15, 1985, urges each member agency to diligently enhance its efforts to offer upward mobility opportunities to all blind persons served regardless of the severity of their handicaps through an established plan with measurable results.

Senator MIKULSKI. We thank you, too, Mr. Wells. You are saying you need more staff, or that the CPBOSH's work——

Mr. WELLS. The Committee for Purchase from the Blind and Other Severely Handicapped, Senator.

Senator MIKULSKI. The workload has increased because of this small law firm?

Mr. WELLS. We believe that the workload has increased, basically for two reasons. One, the addition of a larger number of items to the procurement list which involves quite a bit of research and study on the part of the committee staff, and then the activities resulting from the law firm that I mentioned, which takes an awful lot of committee time to deal with those requirements, remembering that the committee staff has not changed since 1979.

Senator MIKULSKI. Which is nearly a decade.

Mr. WELLS. Right.

Senator MIKULSKI. Nearly a decade. I mean, we are working on the 1988 budget. And what you are saying is, this law firm is really using the committee as its own staff?

Mr. WELLS. I would say that is correct, yes.

Senator MIKULSKI. Well, I have just consulted with counsel here, and I think he would like to have a conversation with you about the impact of this law firm, what it means, and I think the previous witness, Ms. Villines, also mentioned it.

I think this is a new factor for the committee, and we would like to talk with you more about it.

Mr. WELLS. We would be delighted to participate.

Senator MIKULSKI. Thank you, and again, as I said to Ms. Villines, Mr. Wells, keep up your own good work.

STATEMENT OF PETER REAVELEY, CHIEF, AVIATION DEVELOPMENT, MIAMI INTERNATIONAL AIRPORT

Senator MIKULSKI. Now we would like to move on to Mr. Pete Reaveley, the chief of the aviation development at Miami International Airport.

And you are testifying here in behalf of the Airport Operators Council International [AOCI], is that right?

I have been in and out of your airport. You have got your hands full.

Mr. REAVELEY. I hope we gave you good service. We do try. It depends on the time you come in from the Caribbean particularly. We have a system of measuring the passenger clearance time, that is from the time they get off the airplane to the time they are curbside. And we try to get 95 percent of the passengers through to curbside within 45 minutes of getting off the airplane.

At the moment, we are running about 35 minutes, which is quite good.

Now, if you are coming on Saturday at midday from Barbados——

Senator MIKULSKI. No; I tend to be going from Baltimore to Miami and back.

But let's hear your testimony. We are most happy to have you today. You are going to be testifying on Customs, as I understand it.

Mr. REAVELEY. Right.

Good morning, Madam Chairman, members of the subcommittee. My name is Peter Reaveley, I am chief of aviation development at Miami International Airport.

The Airport Operators Council International, for which I speak today, represents the world's airport operators, and our members include the major international airports in the United States and throughout the world as a member of our AOCI group. By the way, Madam Chairman, Baltimore-Washington International.

With your permission, I shall just summarize our prepared testimony which I have already informally submitted.

Senator MIKULSKI. So ordered.

Mr. REAVELEY. We appreciate the opportunity to express our views on the management and the funding of the U.S. Customs Service because we feel strongly that very little attention has been paid to the serious delays in the inspection of arriving international passengers and cargo, and AOCI strongly believes that the root cause of many of these delays is a combination of inefficient and out-of-date procedures and inadequate inspector staffing primarily due to insufficient Federal funding.

Customs has frequently maintained that there is an inherent conflict between enforcement and facilitation, a sentiment with which airport operators disagree strongly. Given adequate resources and modern procedures, any such conflict will disappear.

While we do not know how the administration's 1988 budget proposal for a reduction of 2,000 customs personnel will affect the 700 full-time equivalent inspector positions at international airports, we are very concerned that any cutbacks of inspectors at the airports will compound the already unacceptable delays. The administration's proposed budget perplexes and alarms that the operators because Congress recently authorized using these specifically to generate the revenue for these inspection services.

The efficient processing of arriving international passengers by U.S. Customs and Immigration, Agriculture and Public Health, is tremendously important to the United States in attracting foreign visitors.

Travel and tourism is a huge export industry in terms of its foreign currency earnings and unique in that it is located within our national borders.

The Air Transport Association has estimated that traveling tourism is a $250 billion a year industry, and this makes it important how we treat our valuable foreign visitors, particularly the first impressions of the United States which the visitors receive during the Federal inspection process on their arrival in the United States.

Unfortunately, far too often, that first impression is a lengthy unpleasant and inefficient Federal clearance process. Thai self-inflicted wound applies equally to the processing of air cargo and to the large U.S. international trade industry that their cargo supports.

AOCI believes that the revenues should be spent entirely on the commercial and inspection functions of Customs so that those paying those fees will benefit from them.

The alternative of having the overwhelming majority of honest and law-abiding travelers and shippers pay for enforcement, and here we are thinking of the customs air force and the customs navy, and many other border patrol activities for the interdiction of contraband. Are we spending this all systems equally, and which bears no relation to the traveler or the shipper. It is simply not equitable.

We are heartened to see that several leading Members of Congress have recently spoken out to this, and we hope that the administration will comply with the clear intent of Congress.

The administration, however, should not be allowed to load up the budget for commercial activities with the cost of essentially enforcement functions as, indeed, the administration already proposes in that present budget.

The revenues from user fees, if fully appropriated, will be quite sufficient to fund the current level of inspection staffing, and also sufficient to fund the increasing staffing that is required to handle the growing volume of international travelers as national cargo.

The user fee revenues would also fund the badly needed improvements in customs procedures, to give the traveling and shipping public the level of service they deserve.

Accordingly, AOCI requests that Customs' fiscal 1988 funding should provide for the following four major points:

One, an increase in customs inspector staffing to efficiently handle projected growth in arriving international passengers and cargo.

Two, direction to implement new and more efficient passenger inspection procedures, to reduce passenger clearance times, and an example of this would be the introduction of a true red/green system using specific sampling. Here we are thinking of the European type systems coupled with a Federal mandate all passengers clear all Federal inspection services within 45 minutes of arrival.

Three, the completion of the automated commercial system [ACS], within the next 12-months to allow cargo to be declared more quickly than it is today. In addition, when giving Customs the budget authority for the rapid completion of ACS, Congress should direct Customs to modify its procedures to allow for fast transition to a completely payable system for the clearance of the majority of all cargo using the international standard of electronic data interchange messages.

Four, a 12-month operational test of the new cargo x-ray screening devices which now show great promise for the interdiction of incoming contraband. And for the detection prohibited exports such as high technology computer printers, weapons, while facilitating the movement of both import and export cargo.

Today, airport operators are bearing many of the costs of facilitating the clearance of the passengers and the cargo. At Miami International, for example, $100 million of existing and planned facilities are and will be totally dedicated to Federal inspection.

The Port Authority of New York and New Jersey, they will have twice that amount invested in such facilities.

AOCI believes that airport operators are entitled to some reimbursement for the provision of those facilities with any remaining user fee revenues that are available after the funding of the commercial——

Senator MIKULSKI. Mr. Reaveley, you have about 2 more minutes.

Mr. REAVELEY [continuing]. Of Customs and the other Federal inspection facilities.

We also do not believe in the propagation of multiple user fees. One fee one service. At the most, what we have today, two fees and two services. We want all the fees to be placed into one trust fund to be specifically applied to the Federal inspection services and to be fully appropriated each year.

The airports are working hard to handle the increase in passengers and the increase in cargo. At Miami, for example, we had a 9-percent increase in international passengers last year. We are projecting a 10-percent increase this year.

Our international cargo has doubled in the last 5 years, and we are projecting double in the next 5 years.

We are paying millions of dollars annually in user fees, and we think our traveling and trade community should be entitled to the benefits from those user fees.

Commissioner von Raab is one of the most progressive people we have ever dealt with in our whole history of aviation. And he has a statement for the way Customs did it yesterday, the way Customs did it today or do it today is not going to be the way that Customs do it tomorrow. We would like to see Congress back Commissioner von Raab 100 percent on his attitude for progressive changes in the whole way that Customs works.

Thank you.

PREPARED STATEMENT

Senator MIKULSKI. Thank you very much. And we thank you for not only your fiscal recommendations, but you have given some practical suggestions on expediting passenger service that I think would deal with our concerns related to smuggling and other areas.

So thank you very much for your testimony.

[The statement follows:]

STATEMENT OF PETER REAVELEY

I am Peter Reaveley, Chief of Aviation Development for Miami International Airport. On behalf of the U.S. members of the Airport Operators Council International, particularly the major international airports which this year will receive more than 27 million international passengers, we appreciate this opportunity to express our views regarding fiscal year 1988 funding of the U.S. Customs Service.

The Airport Operators Council International (AOCI) is the association of governmental bodies that own and operate the principal airports served by scheduled airlines in the United States and around the world. AOCI member airports enplane more than 90% of total domestic and virtually all U.S. international scheduled passenger and cargo traffic. Worldwide, our international member airports enplane two-thirds of all airline passengers and cargo on six continents.

We are here today to ask that Congress provide the necessary resources to increase the Custom Services' inspection capabilities, and to improve inspection procedures for greater efficiency in clearing international arriving passengers and cargo.

In particular, we request increased funding in FY 1988 to:

1. Provide additional Customs inspectors to clear passengers and cargo expeditiously.
2. Permit broader implementation of a true "red/green" passenger clearance system at U.S. international airports, to improve present out-dated passenger inspection procedures and to reduce processing delays.
3. Accelerate completion of Customs' Automated Commercial System (ACS) to streamline and improve cargo processing.
4. Enable Customs to conduct a one-year test of X-ray scanning devices for interdicting contraband in both import and export containerized cargo.
5. Assure that Customs User Fee funds are dedicated and fully appropriated for Customs staffing and inspection functions.

Why are these actions so important? Taking a step back from the core issues, the importance of efficient federal inspection is

obvious. The United States is now competing in what amounts to an international trade war, to attract foreign business and foreign visitors. Foreign visitors' purchases of goods and services in the U.S. are an important source of foreign exchange. The Air Transport Association estimates the size of the travel and tourism industry to be about $250 billion. The travel and tourism industry is also labor-intensive. It has great potential for growth and it directly affects the health of our balance of trade and our budget deficit. Yet federal regulations and procedures are the most serious impediments to the growth of this vital industry.

The federal inspection process is the first thing a foreign visitor encounters upon arrival in the United States. Upon arrival, many of those foreign visitors endure an inefficient, outdated, lengthy and often unpleasant federal inspection process, which then sours impressions of their entire stay in the U.S. and also colors the opinion of the U.S. that they express to others in their own country. That foreign visitor's first impression is tremendously important to our travel and tourism industry, and to the jobs of many Americans. Returning U.S. citizens and residents often view the federal inspection process as a necessary but burdensome period, seemingly designed to test their patience after a long and wearying international flight

Our present inspection system discourages tourism and discourages trade, contrary to our national interests and despite a considerable amount of promotional work. If we can remove the impediments, our travel and tourism industry will grow, our foreign trade will grow, employment will grow, and our country's economic health will improve.

To efficiently handle the projected growth in traffic using present Customs procedures will require a substantial increase in funding and manpower. Customs must be encouraged to streamline significantly its existing procedures, by instituting a means for bypassing those passengers who need little or no screening, by automating its cargo clearance system, and by more efficiently

inspecting the small percentage of passengers and cargo that do need inspection.

Delays in clearing international passengers and cargo are costly to everyone -- the traveller, the shipper, the airport and the airlines, and to the economy as a whole. Passengers waiting for clearance and missing connections are wasting potentially productive time. Airlines must re-ticket passengers who miss connections, or reimburse their expenses for meals and lodging, or delay numerous connecting flights and waste the productive capability of multi-million-dollar aircraft. Cargo clearance delays render time-sensitive cargoes, such as perishable fresh produce or flowers, newspapers, courier packages, medical supplies and "just-in-time" inventory items, either worthless or severely reduced in value. The costs are reflected in higher airline ticket prices, higher cargo shipping rates, and foregone economic benefits for everyone.

How many times have we heard travellers say that they will do anything to avoid one or another airport, because of the delays? Often, certainly, and the same applies to cargo shippers.

The root cause of these very common passenger and cargo clearance delays in the federal inspection process is the combination of inefficient, ineffective and out-of-date inspection procedures, and inadequate federal funding for the passenger and cargo inspection activities of the Customs, Immigration, Agriculture and Public Health Services.

CUSTOMS PROCEDURES AND STAFFING

Today airports have no direct influence on the procedures used by the federal inspection agencies. They cannot assure that adequate inspection manpower will be available to avoid processing delays for passengers or cargo. The two vital factors in the inspection process (procedures and staffing) are governed by federal decisions, largely shaped by outdated federal regulations and constant budgetary constraints, which bear little relationship to aviation needs or requirements, locally or nationally. Yet, the airport operator has to provide, at its own cost, all of the space and facilities in which

the federal inspection services screen international arriving passengers, their baggage, and air cargo, as well as all of the associated costs of operation, maintenance and utilities for those facilities. Consequently, we pay for expensive facilities and services over which we have no control.

AOCI has long advocated that the Federal Inspection Services (F.I.S.) (Customs, Immigration, Agriculture and Public Health), in close cooperation with U.S. international airlines and the operators of international airports, should adopt all practical measures to facilitate international air travel, and prevent unnecessary delays to aircraft, passengers, baggage and cargo. While Federal regulations must be enforced, they should be carried out in a manner that imposes the least possible inconvenience on air travellers and the movement of cargo.

CUSTOMS' FY'88 BUDGET AND STAFFING

Last year, with only 700 full-time equivalent inspector positions assigned to U.S. international airports, Customs handled 25 million arriving international passengers and a huge volume of international air cargo. It is no wonder that such a limited number of Customs inspectors cannot process multiple plane-loads of arriving passengers and cargo in a timely fashion.

AOCI is greatly concerned that the Administration's budget for fiscal year 1988 will compound the already unacceptable delays in federal inspection processing. The Administration has proposed reducing Customs personnel from the current 15,177 full-time permanent positions to 13,169. We do not know how this 2,000-position reduction would affect current staffing at U.S. international airports, but we are alarmed that such cuts would be proposed at a time when traffic projections indicate that 29 million international arriving passengers will use our airports in fiscal 1988, a 16% increase over last year.

The present level of staffing is grossly inadequate to clear all international arriving passengers through all federal inspection services within 45 minutes of their arrival in the United States.

This standard, of clearing all passengers within 45 minutes, is not an arbitrary figure. Forty-five minutes represents the maximum amount of time that passengers have to clear federal inspection, if the passenger's aircraft-to-aircraft connecting patterns are to be efficient and meet the international standard of 1-1/2 hours.

PROCEDURAL IMPROVEMENTS

Besides the need for staffing increases, federal inspection agencies are long overdue in instituting several badly-needed procedural improvements.

For example, a true "red/green" passenger clearance system, along the lines of those already in use successfully in most European countries, needs to be applied in the United States. This would solve the problems associated with outdated and inappropriate inspection procedures currently followed.

Customs should use statistical sampling to identify both passengers and cargo to be inspected. As Members of Congress, you are well aware of the power of statistical sampling and its many applications in our society. Quite apart from opinion polls, billions of dollars are committed every day solely on the basis of statistical sampling in market research studies. Customs should make the most of this powerful tool, and perhaps the conflict that Customs maintains is inherent between enforcement and facilitation will then disappear.

Facilities and staffing to clear international arrivals by corporate and general aviation aircraft at major reliever airports are also needed, so that aircraft operation pressures at major international airports can be reduced. Both corporate and general aviation aircraft are important to our international competitiveness, and they deserve adequate service as well.

Only when we have a true red/green system, a 45 minutes-or-less clearance standard, and the ability to clear corporate and general aviation at major reliever airports, will we be satisfied that U.S. citizens and foreign visitors alike are really being served by the

federal inspection process. Only then will we have confidence that we are satisfactorily protecting our borders, while also promoting America for the welcoming country which it really is.

CUSTOMS USER FEES

We are also perplexed as to why the Administration is proposing staffing cutbacks now. The new Customs User Fees, recently authorized by Congress, will raise more funds than are needed to cover the costs of the current level of Customs staffing. These user fee monies will finally provide the source of funds to substantially increase present staffing levels, and therefore the quality of service provided.

We are heartened to see that concerned Congressional leaders such as Senator Bentsen and members of the Senate Finance Committee, in the FY'88 Customs authorization bill (S. 829), have made clear Congress' intent that all Customs User Fee proceeds must be deposited in the same dedicated trust fund account, and shall be treated not as federal "revenues" but as "off-setting receipts" to be spent entirely on Customs inspection functions. This action is vitally important to assure that federal inspection improvements are realized and that those paying the new user fees will benefit from those fees.

If we accept the principle that user fees monies should be spent on the commercial, and inspection and control activities of Customs, it quickly becomes apparent that those funds should be applied to inspection staffing, inspection areas, facility operating costs, improved procedures which reduce inspection time, automated cargo clearance computers, and other costs incurred to facilitate the clearance of travellers and goods. The international traveller and shipper is paying for and should receive adequate service. That service is not being provided today.

Airports are bearing an enormous share of the cost of facilitation. As an example, Miami International Airport has already made capital investments of more than $58 million in passenger inspection facilities, with a further $42 million in facilities under

design and construction. The Miami airport has also invested more than $15 million in cargo inspection facilitation, including more than $10 million in the first computerized cargo-clearance system in the U.S., linked directly to the central Customs computer in Franconia, Va. Operational staff support and maintenance of these facilities costs the airport more than $6 million annually, with an additional $2 million a year in operating costs for the new cargo-clearance computer system.

In New York, the Port Authority of New York and New Jersey has made capital investments of approximately $23 million in passenger F.I.S. facilities at Kennedy Airport's International Arrivals Building (I.A.B.) alone, with an additional $13 million in improvements under construction, while operations and maintenance expenses approximate $8 million annually. Port Authority plans for a complete reconstruction of Kennedy airport's federal inspection areas within the next decade will require expenditures far exceeding what already has been spent.

Airport operators should be entitled to reimbursement for some of these costs. Certainly, any surplus user fees available after the funding of the inspection activities of Customs should go to reimburse airports before funding Customs enforcement activities, which do not affect the average traveller or shipper who pays the user fees.

We oppose any proliferation of user fees unless the Office of Management and Budget can guarantee that the revenues will be applied to the inspection activities of Customs and the facilitation activities of other federal inspection services. Second, it is gratuitously complicated for shippers and travellers to pay, and airlines to collect multiple user fees when federal inspection is really one process. No one, upon arriving in an international airport, pays attention to whether he is spending forty minutes in Immigration and twenty minutes in Customs, or vice versa. His concern is that it took him an hour to clear through the whole process--and he missed his connecting flight!

Therefore, we urge that only one user fee be collected (and certainly no more than the two we already have) and kept in one trust fund, so that those funds can be applied to those projects or services most needed to provide one continuous, efficient facilitation process. There needs to be one smooth, total system, whether the specific inspection elements are performed by Customs, Immigration or Agriculture.

Mr. Chairman, we ask that Congress exert its oversight power to ensure that the integrity of the user-fee system is maintained. There must be full and clear accountability for the collection, administration and expenditure of user fees to ensure that they are devoted to the purpose for which they were authorized, and are not misused to become simply another government taxing mechanism. Even before the $5 per head Customs and Immigration user fees and the 0.22% cargo fee, international air travellers and shippers have been paying for federal inspection facilities. Each international passenger pays a $3 departure tax which accumulates in the Airport and Airway Trust Fund and, along with other aviation user taxes, helps pay for the improvement of our airports and airways. If I seem to belabor this point, it is because in the only other experience airports and passengers have with user fees -- the Airport and Airways Trust Fund -- those funds have been allowed to grow into exhorbitant surpluses and have not been fully used for the purposes originally intended. Please, do not let that abuse of user fee funds be repeated with F.I.S. user fees.

Airport operators and airlines for many years have had to make excuses to the public they serve for inadequate international arriving passenger and cargo processing service. Now that user fees are being collected to pay for these services, there is no excuse for anyone, including the federal government, to hide behind.

CUSTOMS CARGO COMPUTERIZATION

As I noted, several airport authorities are now developing large, complex and expensive computer systems for the automated processing of air cargo. Miami and New York are the first examples of major U.S. international airports whose large cargo-computer systems will

be in full operation during the next twelve months. Development of computerized cargo systems is also being investigated at other airports--in Atlanta, Baltimore, Dallas, Houston and Los Angeles. Computerized cargo processing is designed to streamline customs import and export procedures, eliminate redundant paperwork, and greatly expedite the inspection and clearance of air cargo. Such systems are already being used successfully at most major European and Asian airports.

In the United States, though, these large cargo-clearance computer systems must have some commonality, in order to ensure standard interfaces between all of the users of the systems (the airlines, brokers, forwarders and federal inspection agencies). We are concerned that the independent development of various U.S. airport systems could be costly and result in duplication of efforts.

The AOCI Board of Directors has therefore directed a study of automated clearance systems. We will be happy to share our progress with you, once our airport coordination program is in place. AOCI is also represented on the international Airport Associations Coordinating Council (AACC)/International Air Transport Association (IATA) Automated Cargo Processing Committee. This AACC/IATA committee has been working for the past two years to coordinate the development and standardization, on a worldwide basis, of major international airport Computerized Cargo Clearance Systems. We will also keep the Congress updated on our work with respect to this worldwide coordination.

These new cargo-clearance computer programs represent enormous investments by the major airports (more than $20 million for each of the first two systems at Miami and New York, over a four-year development and operational period). These complex and expensive systems will, however, only bring the projected benefits to U.S. Customs, airports, airlines and the U.S. international trade community if the complete U.S. Customs Automated Commercial System (ACS) is ready to exchange electronic data with the airport cargo clearance computers. We ask that Congress direct the Administration

to provide Customs with the necessary budget to enable it to complete both the automated manifest and the in-bond components of the ACS within the next twelve months.

The Customs ACS program is the primary means of achieving future manpower savings in Customs. It is also the principal catalyst for movement toward "paperless-entry" of general-release cargo, and the first sensible step toward statistical sampling for cargo inspection purposes. The ACS program is also the basis for future major improvements in the level of Customs Service (e.g., 24-hour, 7 days-a-week service; electronic interface with airlines and airports; interface with the international trade community using the new Harmonized Customs Codes and Harmonized International Trade Documents, etc.) Successful completion of the Customs ACS program could help revolutionize U.S. international trade, and greatly improve the cost-benefit programs of the U.S. Customs Service.

Mr. Chairman, we seek your help in ensuring that the necessary funds to expedite the completion of ACS are provided, and that the Customs Service itself also then changes many of its older regulations, to reflect a modern "paperless" electronic data interchange environment. Customs could initiate electronic data interchange immediately, by approving pilot programs in coordination with cooperating automated airlines and automated airports. The manpower savings that could be achieved are enormous, if the processing of cargo were automated and "paperless". Automation would allow those many Customs officers presently tied to their desks handling paper to be freed instead to perform the cargo inspection activities which require trained individual judgment.

X-RAY CARGO SCANNING SYSTEMS

Customs should also be directed to press forward with a twelve-month operational test of the new X-ray cargo scanning systems. Two of these systems now show great promise in the detection of contraband (drugs, etc.) hidden within containerized and palletized cargo, (which now represents approximately 80 percent of all international air cargo). A twelve-month operational test of

both systems in a live environment is now needed. These new X-ray devices also show great promise for better export security control, in their ability to detect "high-tech" computers and weapons in containerized or palletized export cargo. Automated cargo clearance, using the ACS, in conjunction with the airport cargo clearance computers at ports of entry, and the new cargo X-ray scanning devices, can and should work together to achieve the ultimate goals of interdicting narcotics as well as other contraband, and facilitating air cargo movement.

CONCLUSION

In conclusion, Mr. Chairman, international passenger and cargo traffic at our major airports continue to show sustained growth. Our airports are working hard to provide for this growth by investing in large new facilities for the Federal Inspection agencies, and in complex cargo computers. International air travellers and the international trade community are now paying hundreds of millions of dollars annually to fund the federal inspection services. Airports, passengers and the international trade community should now be entitled to receive the benefits from these major investments.

The Customs Service budget for the forthcoming year should be substantially increased in three specific areas: 1) more inspectors to clear passengers and cargo efficiently, 2) the completion of the ACS program to clear air cargo more efficiently, and 3) a one-year test of X-ray scanning devices to interdict contraband in both import and export containerized and palletized cargo. In addition, Customs should be directed to develop and test new and more efficient inspection procedures for both passengers and cargo, using such methods as statistical sampling.

We strongly urge this Committee to provide increased fiscal 1988 appropriations for the U.S. Customs Service and the necessary direction to achieve these objectives.

While our remarks may appear somewhat critical, let me assure you, Mr. Chairman, that AOCI members have had many dealings with Commissioner Von Raab and his management team, and we are all

impressed by their knowledge, skills and concerns for the traveller and shipper. In our view, Commissioner Von Raab is extremely capable and has brought outstanding leadership to Customs. He is, however, faced with the constraints that 200 years of Customs tradition have placed upon him.

Congress should encourage and support his continuing efforts to break the bonds that have historically constrained Customs thinking and actions, by making it clear that Congress also believes "the way Customs did it yesterday and does it today" cannot be the way Customs will do it tomorrow.

Mr. Chairman, this concludes our prepared testimony. I will be glad to answer any questions the Committee may have.

STATEMENT OF PETER STRAUSS, VICE PRESIDENT, NATIONAL ASSOCIATION OF TOBACCO DISTRIBUTORS

Senator MIKULSKI. We now would like to call Mr. Peter Strauss, vice president of the National Association of Tobacco Distributors.

Mr. Strauss will be testifying on the funding level for the Bureau of Alcohol, Tobacco and Firearms [BATF].

Mr. STRAUSS. Good afternoon, Senator. Thank you for this opportunity to appear before you.

I shall not read my entire statement, but I would appreciate it if it would be included in the record.

Senator MIKULSKI. So ordered.

Mr. STRAUSS. My name is Peter Strauss. I am president and chief executive officer of Metropolitan Distribution Services in Flushing, NY, and I am also a vice president and chairman of the Legislation and Tax Committee of the National Association of Tobacco Distributors.

Our association represents some 570 wholesaler-distributor members with over 740 distribution outlets in every State, and represents 230 manufacturer and supplier associates as well.

Representatives of this association have appeared before your subcommittee in each of the past 5 years to present their concerns regarding appropriations for the Treasury Department and, in particular, on the impact which the funding level for the Bureau of Alcohol, Tobacco and Firearms has had on our industry.

Our association opposes the budget recommendation for ATF tobacco law enforcement functions contained in the Department of the Treasury fiscal year 1988 appropriations request submitted to this subcommittee. The recommendation is that no funding be provided for this function for fiscal year 1988, which would mean a reduction of about $4.5 million from the fiscal year 1987 level. This is, despite the fact that

the administration has proposed budget increases in all other areas of ATF law enforcement functions. To strip ATF of its very effective tobacco enforcement program for fiscal year 1988 would be to unleash once again the rampant illegal interstate cigarette bootlegging so prevalent prior to 1979 when the contraband enforcement program went into effect.

That program effectively eliminated the over-the-road interstate bootlegging of cigarettes, and gave each State the highest possible return on its own excise taxes.

It is inconceivable to us that the Congress would act in such a way that the criminal forces would once again gain the upper hand in a very lucrative illegal trade.

The NATD believes that the administration is wrong in its repeated attempts to eliminate the enforcement function of this ATF activity. We recommend maintaining this program at the fiscal year 1987 level of $4.469 million dedicated to the cigarette contraband enforcement function, as Congress has done for the past 5 years.

You may recall, Senator, that both the House and the Senate subcommittees restored over $3 million for the cigarette contraband enforcement program in fiscal year 1987. Last year, this subcommittee supported the House's leadership in this matter by restoring all proposed cuts in the contraband program.

The NATD believes these funds are well spent on behalf of the U.S. taxpayers. Cigarettes are a significant revenue source for the Federal Government budget with almost $5 billion in revenue expected during fiscal year 1987. It seems altogether fitting and proper that the Federal Government does its fair share to ensure that the distribution system for cigarettes in the United States is free from the pressures of smuggling, bootlegging, and organized crime.

Appropriations for the ATF at barely 1 percent of the Federal excise tax revenues generated by cigarettes alone is the least that could be done.

There are many other policy justifications for continued funding of ATF tobacco enforcement functions beyond the fact that cigarette excise taxes produce such a large revenue.

The disparity in State and local cigarette tax rates is what produces the incentive for smuggling and bootlegging. These excise taxes continue to rise on a State and local level, and the disparity between high and low tax States increase as well. For example, a pack of cigarettes in Chicago includes 16 cents Federal excise tax, 20 cents State tax, 15 cents city tax, and 8 cents county tax, for a total of 59 cents. The neighboring State of Kentucky includes only 19 cents in all excise taxes. Therefore, a bootlegger has a margin of 40 cents for every pack of cigarettes, or $4 for every carton to play with when he trucks them to Chicago and sells through legitimate channels in a higher market.

Indianapolis Boulevard is the dividing line between the city of Chicago and the State of Indiana. On the west side, the Illinois side that is, the excise tax on a pack of cigarettes is 59 cents. On the other side,

26½ cents, or a difference of $3.35 per carton. The State of Illinois has assigned 12 investigators since November 1, 1985, to curtail the cigarette contraband and bootlegging activities on this one street alone. The Illinois Association of Candy & Tobacco Distributors informs us that the State of Illinois estimated that it is still losing over $30 million per year from bootlegged cigarettes, not an insignificant revenue loss in this time of budget cuts and deficit financing.

The situation in Illinois is not unique. My own company, I spend over $400,000 annually on extra truck and facility security. That is over 2½ percent of my total expense budget.

In New York, a major tobacco wholesale company had five hijackings in 4 weeks recently, and now maintains armed guards in its warehouses to prevent cigarette smuggling.

This is the reality of our world, an environment where ATF has done an excellent job under Congress' mandated cigarette contraband program. It only tells us that while organized crime and the opportunistic bootlegger have been severely blunted over the past 8 years, their apparatus and their hunger to resume the pre-1979 activity level remain intact and ready to roll if ATF is taken out of the picture. In fact, as I have said, the circumstances which fostered cigarette tax evasion have been expanded since 1979. The tax disparities among the States have continued to widen, thus creating a stronger motive for illegal trafficking. The Federal presence is an indispensable deterrent to this activity for, without it, the States themselves are ineffective. It is an interstate problem, and only the Federal Government can deal appropriately and productively in that arena, supported by the individual States.

Therefore, we respectfully urge the subcommittee to appropriate $4.469 million for fiscal year 1988 for the cigarette contraband enforcement area in the Bureau of Alcohol, Tobacco and Firearms. Funding at this level, which is the same as that of fiscal year 1987, will allow ATEF to fulfill its important responsibilities.

PREPARED STATEMENT

This is not the time to reduce this crucial law enforcement function. Thank you very much.

[The statement follows:]

STATEMENT OF PETER STRAUSS

Mr. Chairman and members of the Subcommittee, my name is Peter Strauss, President and CEO of Metropolitan Distribution Services Inc., Flushing, New York. I am Vice President and Chairman of the Legislation and Tax Committee of the National Association of Tobacco Distributors (NATD). Our association represents over 570 corporate wholesaler-distributor members with over 740 distribution outlets, and represents 230 manufacturer and supplier associates whose 12,000 salesmen canvass and supply almost 1.5 million retail outlets selling tobacco products across the United States. It is estimated that members of our association's trade and industry market goods with an annual wholesale value of over $16.0 billion dollars.

Representatives of the association have appeared before your Subcommittee every year for the past five years to present their concerns regarding appropriations for the Treasury Department and, in particular, the impact which the funding level for the Bureau of Alcohol, Tobacco and Firearms (ATF) has on our industry. There is no other national trade association besides ours with a membership more directly affected by the decisions, regulations and enforcement functions of the tobacco part of the ATF.

Mr. Chairman, our association opposes the recommended budget for ATF tobacco law enforcement functions contained in the Department of the Treasury Fiscal Year 1988 Appropriations request submitted to this Subcommittee for consideration. The ATF has recommended no funding for this function for Fiscal Year 1988, which would be a reduction of $4.5 million from the Fiscal Year 1987 level, despite the fact that the Administration has proposed budget increases in all other areas of ATF law enforcement functions. As a result of this lack of funding for the ATF's tobacco enforcement program for FY 1988, there would be no investigations and no suspects targeted for prosecution regarding cigarette contraband.

The NATD believes that the Administration is wrong in its repeated attempts to eliminate the enforcement function under this ATF activity. We recommend maintaining this program at the Fiscal Year 1987 level of $4.469 million dedicated to the cigarette contraband enforcement function, as the Congress has done for the past five years.

You may recall, Mr. Chairman, that both the House and the Senate Subcommittee restored over $3 million for the Cigarette Contraband Enforcement Program in Fiscal Year 1987. At that time, the House Subcommittee indicated in its report of July 30, 1986 (H.Rep. 99-723) the following:

Cigarette Smuggling

> "The Committee has restored the $3,000,000 and 60 staff-years for the continued enforcement of cigarette smuggling progam in 1987. Public Law 95-575 was enacted on November 2, 1978, to eliminate racketeering in the sale and distribution of cigarettes. This program has been directed toward investigating principal traffickers in contraband cigarettes, their sources and distributors. The major emphasis has been toward combatting commercial interstate smuggling operations involving organized crime and those violations which cannot be jurisdictionally addressed by State and local law enforcement agencies. BATF should continue to concentrate its resources in those areas where overall coordination can be provided centrally more effectively than can be done by the States individually. Inasmuch as the States share this responsibility, these States have begun to develop the technical and enforcement expertise required to prevent trafficking in contraband cigarettes. The Bureau is directed to continue assisting the States in this important program in 1987 at the same level provided to the States in 1986."

Last year, this Subcommittee supported the House's leadership in this matter by restoring all proposed cuts in the Cigarette Contraband Program. In fact, the Senate Subcommittee, Chaired by former Senator James Abdnor (R-SD), indicated that the Cigarette Contraband Program:

> "Is coordinated with State revenue agencies and has made a significant impact on the development of enforcement capabilities required in combatting trafficking of contraband cigarettes. This program will continue at the level it did in 1986."

The NATD believes these funds are well spent on behalf of

the U.S. taxpayers. Cigarettes are a significant revenue source for the federal government budget, with an estimated $4.787 billion in revenue expected during FY 1987. It seems altogether fitting and proper that the federal government does its fair share to ensure that the distribution system for cigarettes in the United States is free from the pressures of smuggling, bootlegging and organized crime. Appropriations for the ATF in the amount of $4.5 million for FY 1988 is the least that could be done given the magnitude of the revenue contributions made by the federal cigarette excise tax.

Yet there are many other policy justifications for continued funding of ATF tobacco enforcement functions beyond the fact that cigarette excise taxes produce such a large revenue.

The basic cause of cigarette smuggling is the disparity in state and local cigarette tax rates, which produce the incentive for smuggling and bootlegging. These excise taxes continue to rise on a state and local level. For example, the price for a pack of cigarettes in Chicago includes 16 cents federal tax, 20 cents state tax, 15 cents city tax and 8 cents county tax, for a total of 59 cents in excise taxes while the price of a pack of cigarettes from the neighboring State of Kentucky includes only 16 cents federal tax and a mere 3 cents state tax for a total of 19 cents in excise taxes. A bootlegger would receive a profit of 40 cents for every pack of cigarettes, or $4.00 for every carton, which was purchased in Kentucky, trucked to Chicago and sold at the same price as similar packs sold through legitimate channels.

Indianapolis Boulevard is the dividing line between the City of Chicago, the State of Indiana. On the west side, the Illinois side that is, the excise tax on a pack of cigarettes is 59 cents. On the Indiana side it is 26 1/2 cents, or a difference of $3.35 per carton. The State of Illinois has assigned 12 investigators, since November 1, 1985, to curtail the cigarette contraband and bootlegging activities on this street alone. The Illinois

Association of Candy and Tobacco Distributors informs us that the State of Illinois estimated that it is loosing over $30 million per year from bootlegged cigarettes, which is a significant revenue loss to states in this time of budget cuts and deficit financing.

The situation in Illinois is not unique, according to our tobacco wholesaler members located around the country. For example, in New York a major tobacco-wholesale company had five hijackings in four weeks and now maintains armed guards in its warehouses to prevent cigarette smuggling.

Mr. Chairman, if I were in the organized crime family, I would be pleased to see the end of federal cigarette contraband enforcement functions. In fact, I would encourage a further reduction to virtually eliminate all agents, investigations and programs in this area. However, we at NATD strongly believe that now is not the time to reduce this law-enforcement function.

The circumstances which foster cigarette tax evasion schemes have not been eliminated, but rather have been enhanced; and hense there is a greater motive for the resurgence of this activity. The only solution is a continued federal presence in the tobacco enforcement area. The federal presence is a deterrent to organized crime, an assist to state enforcement authorities, and the only means to control a problem which is, by definition, an interstate problem.

Therefore, we urge the Subcommittee to appropriate $4.469 million for Fiscal Year 1988 for the cigarette contraband enforcement area in the Bureau of Alcohol, Tobacco and Firearms. Funding at this level, which is the same as that of Fiscal Year 1987, will allow ATF to fulfill its important responsibilities.

Senator MIKULSKI. Thank you very much, Mr. Strauss. And I think your testimony, particularly on the fact that it shows that crime does pay, does it not?

Mr. STRAUSS. Yes.

Senator MIKULSKI. And pays very handily in the whole issue of bootlegging and the issues around cigarettes and the excise tax and so on.

Mr. STRAUSS. It has been termed as a victimless crime. However, the moneys gained from these victimless crimes are used for other nefarious reasons.

Senator MIKULSKI. Well, usually the people involved in this type of activity have that point in organization quite a network, quite an infrastructure that they maintain.

Mr. STRAUSS. Correct.

Senator MIKULSKI. And I think everybody is a victim when you have crime.

Thank you very much for your testimony.

Mr. STRAUSS. Thank you.

STATEMENT OF CHARLES CULLEN, PRESIDENT AND LIBRARIAN, THE NEWBERRY LIBRARY, CHICAGO, IL

Senator MIKULSKI. Now we would like to call Mr. Charles Cullen, director of the Newberry Library in Chicago, IL. And he is going to elaborate on the need for funds for the national historical publications and records submission.

Mr. Cullen, you are the president and librarian of the Newberry Library.

Mr. CULLEN. Madam Chairman, last fall I became the president and the librarian of the Newberry Library of Chicago, a century-old independent research library concentrating on history and the humanities. Prior to accepting this position, I served first as editor of the papers of John Marshall at the College of William & Mary, and later as editor of the papers of Thomas Jefferson at Princeton University.

Today, I appear before this Subcommittee representing the Coalition to Save Our Documentary Heritage in support of an appropriation for the National Historical Publications and Records Commission [NHPRC] at the full authorization level.

For almost 20 years, I have been a close follower of the work of this Commission. This is one of those Federal commissions that quietly accomplishes a great deal with a minuscule percentage of the Federal budget, and the small sums that it provides to help preserve and disseminate important historical documents have attracted very large sums from private and State sources.

In most cases, the Federal grants have provided an essential financial base for documentary projects. Some of these, like the papers of John Marshall, began when the NHPRC offered to match one-half the necessary cost of funding that project if the Commonwealth of Virginia would provide the other one-half through the College of William & Mary. The project never would have begun had this agency not dem-

onstrated its confidence in its potential by providing the base money. In a short period of time, the percentage of Federal to State and private support for that project had dropped to approximately 30 percent, something less than 30 percent actually.

This pattern of using a small amount of money, most often less than $50,000, actually an average of about $37,000, to help establish and fund a documentary project is typical since the NHPRC's grant program was initiated in 1964. Of the 225 publications projects partially supported since then, 175 have completed their work, and together they have added 504 printed volumes and over 7,000 reels of microform to the resources necessary to study our national heritage. This is a remarkable achievement for any agency, but especially for one that was given a very small sum of money to carry out an executive order to play a leading role in bringing into print the important papers of our past, a very small sum of money to carry out a very large order.

It was Thomas Jefferson whose papers are being edited and published as part of this national program who made the best argument for publishing papers like those among the hundreds of volumes printed under this program.

Writing to Ebeneezer Hazard in February 1791, he said, and I quote:

> I learn with great satisfaction that you are about committing to the press the valuable historical and State papers you have been so long collecting. Time and accident are committing daily havoc on the originals deposited in our public offices. The lost cannot be recovered, but let us save what remains, not by vaults and locks which fence them from the public eye and use, in consigning them to the waste of time, but by such a multiplication of copies, as shall place them beyond the reach of accident.

The modern scholarly editing introduced by Julian Boyd in his work on Thomas Jefferson does much more than bring these materials to the public. It saves immeasurable time and prevents the perpetuation of historical error because the editors who are at work on these papers bring skills to the task that ensures the work will be done in such a fashion that it will not have to be done again. You may be aware that there are earlier, mostly 19th century, editions of the papers of many of our important historical figures. These editions were so flawed by inaccuracies or incompleteness that modern scholars have been unable to rely on them and, worse, they have misled generations of general readers of American history. The work of the NHPRC has brought about fundamental change on these fronts.

Today we are much aware that in many ways the most important records of our past are not those retained in the Jefferson or Washington or Franklin papers. While these may form the superstructure of our national history, the real foundation is located in the papers of less stellar figures. There are projects to publish the papers of such important Americans as Robert Morris, financier of our fledgling government after the Revolution at Queens College. Aaron Burr at the New York Historical Society; Elizabeth Drinker at Fordham University; the Journals of Diego de Vargas in New Mexico; Charles Carroll of Carrollton; Samuel Gompers, and Booker T. Washington, all at the University of Maryland. And such important topical documentary proj-

ects is that being done at the University of Wisconsin on the ratification of the U.S. Constitution and the first Federal elections, one on the Southwest at Arizona State; one on the experience of the new freedmen at Maryland; and one on the Dutch colonial experience in New York. The papers of Elizabeth Cady Stanton and Susan B. Anthony are underway at the University of Massachusetts at Amherst, those dealing with the first Federal Congress are being done at George Washington University here in the District.

At the same time, work moves forward on the papers of such American luminaries as James Madison, Dwight D. Eisenhower, Andrew Jackson, Marcus Garvey, and Albert Gallatin. The edition of the papers of Alexander Hamilton is now completed, as is that containing the papers of Aaron Burr, the latter thanks to grants from NHPRC and other sources, the former thanks to the same——

Senator MIKULSKI. Mr. Cullen, you have about 2 more minutes.

Mr. CULLEN [continuing]. And to Aaron Burr.

The NHPRC-sponsored edition of the papers of Booker T. Washington is complete, and so is that focusing on a famous Italian-American friend and neighbor of Jefferson, Philip Maazei. The list is long and it is impressive.

All this achievement in helping preserve our documentary heritage leads Americans like myself to question the wisdom of abandoning support for such a significant program, as recommended in the President's budget. It has been argued that the projects can continue on their own, but it has been demonstrated that this is unlikely. Some of these projects are located at institutions where one might expect to find them. One thinks of Hamilton as having a natural relationship with Columbia University, and of James Madison and George Washington with Virginia. But what of Jefferson at Princeton and Franklin at Yale? And what of the idea that these institutions have a vested interest in supporting the editing and publication of these papers?

It has been stated to me in no uncertain terms by persons in authority that if the NHPRC and other sources of funding for the Jefferson papers at Princeton were to disappear, that university could not and would not justify putting any of its general operating funds into the work of the project.

While raising private funds for that and other projects, I was told similar things, that the Mellon Foundation, for example, would not contribute grants to the Jefferson project or that doing Adams, Franklin, Madison, and Washington if there were not Federal funds at the base.

Most foundation officers and other philanthropists recognize what some in Government do not. These papers belong to the Nation, not to an individual institution that has sole responsibility to bring them before the public. It is true that most of the 225 projects supported by this program have been jointly sponsored by logical institutions. Places with a special interest. This is not always the case nor should it indicate a willingness on the part of those sponsors to go it alone.

This is a time of great importance to the Nation and its history. We are celebrating the Bicentennial of our Constitution, and we are also trying to deal with a large financial deficit in our national budget. We can ignore neither our history nor our financial responsibility. The grants program of NHPRC has remained at a constant level for many years. The Congress has seen fit to continue it at this relatively low level as a means of being responsible both to our history and to our economy. Eliminating the program in an effort to balance the budget is not responsible to either. A $5 million program with such success and significant results requires your support as recognition that prudently managed and wisely conceived Federal programs deserve encouragement rather than elimination. The documentary projects are at an important stage in their history right now. Most have adopted new technology with computers as a means of greater efficiency in editing and publishing their work. The success of the projects sponsored by the NHRPC has attracted a new generation of young scholars into the field, promising a continuing commitment to the high standards demanded by the Commission and for which the field has become known in our recent past.

So, as a concerned citizen and a scholar of American history and culture, I urge you to approve an appropriation equal to the full authorization of $5 million in order that this work so fundamentally important to our Nation's history may continue.

Thank you very much.

PREPARED STATEMENT

Senator MIKULSKI. Thank you very much, Mr. Cullen, for a detailed presentation of what this program means and its contribution to our history. Thank you.

Mr. CULLEN. Thank you.

[The statement follows:]

STATEMENT OF CHARLES CULLEN

Last fall I became the president and librarian of The Newberry Library of Chicago, a century-old independent research library concentrating on history and the humanities. Prior to accepting this position, I served first as editor of the Papers of John Marshall at the College of William and Mary and later as editor of the Papers of Thomas Jefferson at Princeton University. Today I appear before this subcommittee representing the Coalition to Save our Documentary Heritage.

For almost twenty years I have been a close follower of the work of the National Historical Publications and Records Commission. This is one of those federal commissions that quietly accomplishes a great deal with a minuscule percentage of the federal budget, and the small sums that it provides to help preserve and disseminate important historical documents have attracted very large sums from private and state sources. In most cases the federal grants have provided an essential financial base for documentary projects. Some of these, like the Papers of John Marshall, began when the NHPRC offered to match half the necessary costs of funding that project if the Commonwealth of Virginia would provide the other half at the College of William and Mary. The project would never have begun had this agency not demonstrated its confidence in its potential by providing base money. In a short period of time, the percentage of federal to state and private support for that project had dropped to approximately 30%.

This pattern of using a small amount of money -- most often less than $50,000 -- to help establish and fund a documentary project is typical since the NHPRC's grant program was initiated in 1964. Of the 225 publications projects partially supported since then, 175 have completed their work and together they have added 504 printed volumes and over 7,000 reels of microform to the resources necessary to study our national heritage. This is a remarkable achievement for any

agency, but especially for one that was given a very small sum of money to carry out an executive order to play a leading role in bringing into print the important papers of our past. It was Thomas Jefferson, whose papers are being edited and published as part of this national program, who made the best argument for publishing papers like those among the hundreds of volumes printed under this program. Writing to Ebenezer Hazard in February 1791, he said: "I learn with great satisfaction that you are about committing to the press the valuable historical and state-papers you have been so long collecting. Time and accident are committing daily havoc on the originals deposited in our public offices. . . . The lost cannot be recovered; but let us save what remains: not by vaults and locks which fence them from the public eye and use, in consigning them to the waste of time, but by such a multiplication of copies, as shall place them beyond the reach of accident."

The modern scholarly editing introduced by Julian Boyd in his work on Thomas Jefferson does much more than bring these materials to the public. It saves immeasurable time and prevents the perpetuation of historical error because the editors who are at work on these papers bring skills to the task that ensure the work will be done in such a fashion that it will not have to be done again. You may be aware that there are earlier, mostly 19th century, editions of the papers of many of our important historical figures. These editions were so flawed by inaccuracies or incompleteness that modern scholars have been unable to rely on them, and, worse, they have misled generations of general readers of American history. The work of the NHPRC has brought about fundamental change on these fronts.

Today we are much aware that in many ways the most important records of our past are not those retained in the Jefferson or Washington or Franklin papers. While these may form the super-structure of our national history, the real foundation is to be found in the papers of less stellar figures. There are projects to publish the papers of such important Americans as Robert Morris,

financier of our fledgling government after our Revolution (Queens College), Aaron Burr (New-York Historical Society), Elizabeth Drinker (Fordham), the Journals of Diego de Vargas (New Mexico), Charles Carroll of Carrollton, Samuel Gompers, and Booker T. Washington (Maryland), and such important topical documentary projects as that being done at the University of Wisconsin on the ratification of the U.S. Constitution and the First Federal elections, one on the southwest at Arizona State, one on the experience of the new freedmen at Maryland, and one on the Dutch colonial experience in New York. The Papers of Elizabeth Cady Stanton and Susan B. Anthony are under way at the University of Massachusetts at Amherst, those dealing with the First Federal Congress at George Washington University. At the same time work moves forward on the papers of such American luminaries as James Madison, Dwight D. Eisenhower, Andrew Jackson, Marcus Garvey, and Albert Gallatin. The edition of the papers of Alexander Hamilton is now completed, as is that containing the papers of Aaron Burr, the latter thanks to grants form the NHPRC and other sources, the former thanks to the same and to Aaron Burr. The NHPRC-sponsored edition of the papers of Booker T. Washington is complete, as is that focusing on a famous Italian friend and neighbor of Thomas Jefferson, Philip Mazzei. The list is long, and it is impressive.

All this achievement in helping preserve our documentary heritage leads Americans like myself to question the wisdom of abandoning support for such a significant program. It has been argued that the projects can continue on their own, but it has been demonstrated that this is unlikely. Some of these projects are located at institutions where one might expect to find them. One thinks of Hamilton as having a natural relationship with Columbia University, and of James Madison and George Washington with Virginia, but what of Jefferson at Princeton and Franklin at Yale? And what of the idea that these institutions have a vested interest in supporting the editing and publication of these papers? It cannot be argued that this work fits in with the educational mission of any one academic institution or historical society or research library. It has been stated to me in no uncertain terms by persons in authority that if the NHPRC and other sources of funding for the Papers of Thomas Jefferson were to

disappear, Princeton University could not justify putting any of its general operating funds into the work of the project. While raising private funds for that and other projects, I was told by officers of two major foundations that they would not make grants to the projects publishing the papers of Jefferson, Adams, Franklin, Madison, and Washington if there were not some basic support for this work from the federal government. At the present time, NHPRC support for the Jefferson project totals 40% of its annual budget, while the remaining 60% comes from two national foundations and other donors. These percentages are typical for these large, long-term projects, and I suspect for most projects currently receiving support from the NHPRC.

Most foundation officers and other philanthropists recognize what some in government do not: these papers belong to the nation, not to an individual institution that has sole responsibility to bring them before the public. It is true that most of the 225 projects supported by the NHPRC have been jointly sponsored by "logical" institutions -- that is, places with some special affinity for the subject of the edition. This is not always the case nor should it indicate a willingness on the part of those sponsors to go it alone.

This is a time of great importance to the nation and its history. We are celebrating the bicentennial of our Constitution and we are also trying to deal with a large financial deficit in our national budget. We can ignore neither our history nor our financial responsibility. The grants program of the NHPRC has remained static for many years. Congress has seen fit to continue it at a relatively low level as a means of being responsible both to our history and to our economy. Eliminating the program in an effort to balance the budget is not responsible to either. A five million dollar program with such success and significant results requires your support as recognition that prudently managed and wisely conceived federal programs deserve encouragement rather than elimination. Documentary projects are at an important stage in their history right now. Most have adopted new technology with computers as a means of greater efficiency in editing and publishing their work. The success of the projects supported by the NHPRC has attracted a new generation of young scholars into the field, promising a continuing commitment to

the high standards demanded by the NHPRC and for which the field has become known in our recent past. Its success in bringing about the publication of our historical documents led to its being charged with the additional duty of helping in programs of document preservation, at which time its grants program was doubled. Therefore, half its appropriation goes toward publication in various forms and half is spent on records preservation projects. As a concerned citizen and a scholar of American history and culture, I urge you to approve an appropriation equal to the full authorization of $5 million in order that this work so fundamentally important to our nation's history may continue.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Grant Programs

Publications Program: Since 1965, the Commission has awarded grants for documentary works in American history. At present 504 sponsored volumes have appeared, as well as 7,413 reels of microfilm and 1,847 microfiches. There are 167 completed microform editions and 27 completed book series, including the 26-volume edition of The Papers of Alexander Hamilton.

Records Program: Since 1976, the Commission has given grants to state and local governments, historical societies, archives, libraries, and associations for the preservation, arrangement, and description of historical records and for a broad range of archival training and development programs. Since the inception of the records program more than 600 institutions and organizations in 49 states, the District of Columbia, Puerto Rico, and American Samoa have received grants.

Publication Subvention: In 1975 the Commission began making small grants (none exceeding $10,000 per volume) to university presses or other nonprofit publishers to defray expenses of publishing the NHPRC's documentary editions. The effect of this program has been to encourage presses to publish volumes that are frequently more difficult, time-consuming, and expensive to print than the ordinary book. A condition of each subvention grant is that the press must adhere to stringent paper and binding standards set by the Commission. These NHPRC standards have become widely recognized within the publishing industry as the most practicable guidelines for ensuring book longevity.

To date the Commission has assisted in the publication of 179 volumes, with subvention grants totaling $1,534,316 awarded to 32 publishers in 18 states and the District of Columbia.

Non-Federal Contributions

Because it has felt that a grant program should be a cooperative venture, the NHPRC has required a high percentage of non-Federal contributions from grant applicants. A recent study of completed grant projects indicates an average non-Federal contribution of 53% of total project costs.

Fiscal Year 1986

Grant proposals and awards:

	Records Program	Publications Program	Total
Proposals received	119	69	188
Amount requested	$5,771,198	$2,559,230	8,330,428
Grants awarded	85	59	144
Dollar value of grants	$1,952,043	$1,944,804	3,896,847
Average amount requested	48,497	37,090	
Average grant amount	22,965	32,963	

Directory and Survey Projects

From 1974 to 1977, the NHPRC staff surveyed thousands of institutions nationwide to gather data for the Directory of Archives and Manuscript Repositories in the United States. Published in 1978, the Directory contains information on 3,200 universities, public libraries, historical societies, government agencies, and other repositories of archives and manuscripts. A second edition of the Directory, planned for publication in 1987, will provide updated entries for the 3,200 repositories in the first edition and new entries for 1,400 repositories, for a total coverage of 4,600 repositories.

Educational Activities

Gift funds donated by the Andrew W. Mellon Foundation help support the Commission's annual Institute for the Editing of Historical Documents. The two-week institute, held at the University of Wisconsin and co-sponsored by the university and the State Historical Society of Wisconsin, is funded through 1989. The fellowship program, begun in 1967 and funded through 1982 by the Mellon Foundation, was continued with appropriated funds for 1983 and 1984. For 1985-87 the Mellon Foundation has made a three-year grant of $100,000 to help support six fellowships per year to provide intensive, yearlong training in documentary editing and archival administration; NHPRC appropriated funds in the amount of $224,000 make up the balance for the three-year program.

Educational Program Expenses, FY 1986

Annual editing institute	$ 12,000	Mellon grant and other gift funds
Fellowships (6 @ $18,000)	108,000	Appropriated funds and Mellon grant
Annotation (newsletter)	2,792	Miscellaneous gift funds
Exhibit booth expenses (for 3 professional meetings)	6,143	Appropriated funds

Research Center

The Commission's publications research center assists grant recipients in their work to produce documentary publications. The center maintains space for grantees to perform research while at the National Archives, and provides for their use a large reference library, including archives and manuscript repository guides and inventories. The research center staff assists these grant projects by conducting historical research at the National Archives, the Library of Congress, and other nearby repositories of historical documents.

Funding for the Commission's Programs

In each fiscal year since 1982, the NHPRC appropriation has been omitted from the Administration's budget and subsequently restored at various levels by the Congress. This action by Congress followed the form of a continuing resolution for each of the six fiscal years, with an added emergency supplemental in FY 1982. In FY 1986, appropriated grant funds were reduced to $3,828,000 in accordance with Gramm-Rudman-Hollings. Funds for the grant program are "no year" moneys, available until expended.

Fiscal Year	Authorization Level	President's Budget	Final passage by Congress
1981	$4 million	$4 million	$4 million
1982	0	0	2.5 million
1983	0	0	3 million
1984	4 million	0	4 million
1985	4 million	0	4 million
1986	5 million	0	4 million*
1987	5 million	0	4 million
1988	5 million	0	-pending

*Reduced to $3,828,000 by Gramm-Rudman-Hollings.

Under the President's proposed FY 1988 budget, the grant programs of the National Historical Publications and Records Commission would be reduced from the present FY 1987 level of $4 million to zero. The following list shows the probable impact of this action on the Commission's continuing publications projects.

Project	Institution	Projects Likely to End If Commission Funding Lost
Adams Papers	Massachusetts Historical Society	X
Jane Addams	Duke University	X
Black Abolitionists	Florida State University	
John C. Calhoun	University of South Carolina	
Charles Carroll	University of Maryland	X
Salmon P. Chase	Claremont Graduate School	X
Henry Clay	University of Kentucky	
Constitution & Elections	University of Wisconsin	X
Jefferson Davis	Rice University	X
Eugene Debs	Indiana State University	
Frederick Douglass	Yale University	X
Dwight Eisenhower	Johns Hopkins University	
Elizabeth Drinker Diaries	Fordham University	X
First Federal Congress	George Washington University	X
Benjamin Franklin	Yale University	
Freedmen and Southern Society	University of Maryland	
Daniel Chester French	Nat'l. Trust for Historic Preservation	
Albert Gallatin	Baruch College, C.U.N.Y.	X
rcus Garvey and the UNIA	University of California, Los Angeles	
mma Goldman	University of California, Berkeley	
Samuel Gompers	University of Maryland	X
Ulysses S. Grant	Southern Illinois University	X
Nathanael Greene	Rhode Island Historical Society	X
Harmony Society	Clark University	X
Andrew Jackson	University of Tennessee	
J. Franklin Jameson	American Historical Association	X
John Jay	Columbia University	
Thomas Jefferson	Princeton University	X
Andrew Johnson	University of Tennessee	X
John Paul Jones	Texas A&M University	X
Martin Luther King, Jr.	Martin Luther King, Jr. Center	X
Henry Laurens	University of South Carolina	
William Livingston	New Jersey Historical Commission	
James Madison	University of Virginia	X
George Marshall	George C. Marshall Foundation	X
John Marshall	Inst. for Early American Hist. & Cult.	
Robert Mills	Smithsonian Institution	
Robert Morris	Queens College, C.U.N.Y.	X
Frederick Law Olmsted	American University	
ames K. Polk	University of Tennessee	X
ocumentary Relations of S.W.	Arizona State Museum	
Stanton and Anthony	University of Massachusetts, Amherst	
Charles Sumner	Pitzer College	X
Supreme Court	Supreme Court Historical Society	X
William Thornton	Columbia Historical Society	
Diego de Vargas	University of New Mexico	X
Daniel Webster	Dartmouth College	

THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

From the days of the American Revolution, the Federal government has sponsored the publication and preservation of documentary sources. At the same time that J. Franklin Jameson and others championed the growth of archival institutions throughout the states early in the twentieth century and worked for the creation of a National Archives, they also stressed the need for a historical publications commission in the tradition of those established in Great Britain in 1800, France and Belgium in 1834, and several other countries before 1900, most notably Russia and Japan. The National Historical Publications Commission, created with the National Archives in 1934 and first

staffed in the 1950s, received a strong mandate for national leadership in the field of American history.

1934 Established as the National Historical Publications Commission in the same act that created the National Archives.

1950 Received authorization from Congress for a staff and regular meetings.

1964 Received a grant from the Ford Foundation for $2 million to support the editing of the papers of Adams, Jefferson, Hamilton, Franklin, and Madison, and a Congressional authorization of $500,000 annually for other documentary editions.

1972 With the Ford grant expiring and the Bicentennial approaching, received Congressional authorization for $2 million annually for documentary publications.

1974 After considerable effort on the part of the research public, name changed to National Historical Publications and Records Commission, authorization level raised from $2 million to $4 million, two archival/museum societies added to membership.

1978 Appropriation reached full authorization level of $4 million.

1981 President Carter's final budget recommended grant program level of $3 million for FY 1982. The Reagan Administration's revised budget for FY 1982 recommended no grant funds for the NHPRC.

1982 The Commission received $1 million under the FY 1982 continuing resolution and $1.5 million under an FY 1982 emergency supplemental funding bill.

1983 The Commission received $3 million under the FY 1983 continuing resolution.

1984 The Commission received $4 million under the FY 1984 continuing resolution; Reauthorization Act provided levels of $4 million for 1984 and 1985, and $5 million for 1986, 1987, and 1988.

1985 The Commission received $4 million under the FY 1985 continuing resolution.

1986 The Commission received $4 million under the FY 1986 continuing resolution. This amount was reduced by 4.3% in accordance with the provisions of Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985.

1987 The Commission received $4 million under the FY 1987 continuing resolution.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Frank G. Burke, Acting Archivist of the United States, ex officio chairman

U. S. SUPREME COURT
Harry A. Blackmun, Associate Justice

U. S. SENATE
Mark O. Hatfield of Oregon

U. S. HOUSE OF REPRESENTATIVES
Corinne C. "Lindy" Boggs of Louisiana

DEPARTMENT OF STATE
William Z. Slany, Director, Historical Office

DEPARTMENT OF DEFENSE
Alfred Goldberg, Historian, Office of the Secretary

LIBRARY OF CONGRESS
James Hutson, Chief, Manuscript Division

PRESIDENTIAL APPOINTMENTS
Albert J. Ossman, Jr., Professor of Political Science/Public Policy, Bethany College
William A. Schambra, American Enterprise Institute

AMERICAN HISTORICAL ASSOCIATION
Carol Bleser, Professor of History, Clemson University
Ronald P. Formisano, Professor of History, Clark University

ORGANIZATION OF AMERICAN HISTORIANS
Louis R. Harlan, Professor of History University of Maryland
Norman A. Graebner, Professor of History, University of Virginia

SOCIETY OF AMERICAN ARCHIVISTS
Helen W. Samuels, Archivist, Massachusetts Institute of Technology
Edward C. Papenfuse
Maryland State Archivist

AMERICAN ASSOCIATION FOR STATE AND LOCAL HISTORY
Larry E. Tise, Executive Director, Pennsylvania Historical and Museum Commission
David H. Hoober
Arizona State Archivist

Coalition to Save our Documentary Heritage

The American Association for State and Local History
National Association of State Archivists and Records Administrators
American Historical Association
National Coordinating Committee for the Promotion of History
American Catholic Diocesan Archivists
Association for Documentary Editing
Northeast Document Conservation Center
Pacific Northwest Archivists Inc.
American Association of University Presses
Organization of American Historians
Society of Georgia Archivists
Kentucky Council on Archives
Tennessee Archivists
Society of Southwest Archivists
Long Island Archives Conference
New England Archivists
Society of Ohio Archivists
Society for History in the Federal Government
American Library Association
Society of Indiana Archivists
New England Museums Association
Massachusetts Committee for the Preservation of Architectural Records
Conference of Intermountain Archivists
Society for the Preservation of New England Antiquities
Southern Historical Association
Western Council of State Libraries
The National Trust for Historic Preservation
Michigan Archival Association
Columbia Seminar on Early American History and Culture

American Society for Legal History
Regional Conference of Historical Agencies (Central and Northern New York)
Mid-Atlantic Regional Archives Conference
New England Library Board
Midwest Archives Conference
Association of Research Libraries
Conservation Administration News
Public Works Historical Society
Society for Historians of the Early American Republic
Kansas City Area Archivists
Association for the Study of Afro-American Life and History, Inc.
Dobbs Brothers, Restoration and Conservation Co., Inc.
Association of Records Managers and Administrators, Inc.
Coordinating Committee on Women in the Historical Profession
Society for Scholarly Publishing
National Association for Interdisciplinary Ethnic Studies
Tennessee Cultural Crisis Committee
Society of California Archivists
Archivists Roundtable of Metropolitan New York
American Military Institute
The Manuscript Society
Lake Ontario Archives Conference
The Berkshire Conference on the History of Women
The Society of American Archivists
Agriculture History Society
Society for the History of American Foreign Relations
National Genealogical Society
Society of Mississippi Archivists
The American Association of University Women

STATEMENT OF JIM GONZALEZ, SUPERVISOR, SAN FRANCISCO, CA

Senator MIKULSKI. We are now going to call upon Mr. Jim Gonzalez, a supervisor in San Francisco, CA, and I understand you are going to be testifying on the proposed GSA Federal building plan for Oakland.

Mr. GONZALEZ. Our problem—and thank you very much, Senator Mikulski, for this opportunity to testify before you and present some information. It is actually to offer some guiding principles in your review of the General Services Administration's program of consolidating Federal employees into buildings in the bay area.

Before you, and as was presented by Mayor Feinstein this morning, the chief executive of our city, you have a situation where GSA has been instructed to develop almost a prototype plan for a Federal building in Oakland, and that prototype has really taken on quite a lot of positive steam. But, like all good ideas, there are some things that need to be considered before you move in haste.

The things that I am hoping that this committee will consider, and I respectfully suggest, is that three factors involved in this decision. One is that it could very possibly result by building such a superstructure in Oakland, that 3,500 Federal employees in San Francisco will be moved across the bay. And it is very, very important that the convenience of Federal workers becomes one of the paramount factors in this decision.

We do not oppose by any means Oakland providing this haven for Federal workers. But, again, as Mayor Feinstein said earlier this morning, when we are going to lose 3,500 jobs in our city, we are going to do everything possible to save those jobs. That leads me to talk about

that when these decisions are made, one of the most important considerations should be the impact on the local economy.

As you pointed out, in the great State of Maryland and in Baltimore, it would be very, very, you know, the city council, I imagine, would be very distraught if someone told them that potentially they would lose 3,500 jobs.

From my review of the buildings that are involved in this move, we are talking about Federal employees that provide services to the poor, to disabled, to seniors, and frankly I would hate to see the situation where our poor or seniors have to travel across the bay to receive those services.

I think that looking at the convenience of Federal workers, I think it is better, according to our surveys, to leave those Federal workers in San Francisco because you are asking—60 percent of them already live in San Francisco, the peninsula, and Marin County. And I think you also have to—I just know that 3,500 Federal employees leaving San Francisco will have a devastating effect on our local economy.

And I guess the last factor that does need to be considered is that I think San Francisco, as pointed out this morning, has some very, very attractive offers to GSA in the place of three buildings that were mentioned earlier this morning, that will prove as a very cost-effective. Last night, we secured the promise from three different property owners that they would donate the land and, through lease purchase agreements, that GSA now seems to be very attracted to, we could work out quite a very attractive deal for the GSA and keep our employees.

So I submit all these guiding principles to you, and ask for your consideration of keeping those jobs in San Francisco.

Thank you very much.

Senator MIKULSKI. Well, thank you very much, Supervisor Gonzalez.

I was on the Baltimore City Council. That is how I then moved on to the U.S. Congress, the House of Representatives, then to the Senate. I bet you come up with some attractive ideas. I have confidence in you.

ADDITIONAL PREPARED STATEMENTS

Thank you for your testimony today, but before you leave, additional statements will be included in the record at this point.

[The statements follow:]

STATEMENT OF JOEL T. THOMAS, PRESIDENT, ALLIANCE OF NONPROFIT MAILERS

Mr. Chairman and Members of the Subcommittee, I am Joel Thomas, President of the Alliance of Nonprofit Mailers and General Counsel of the National Wildlife Federation. With me is the Honorable James M. Hanley, legislative consultant to the Alliance. We greatly appreciate this opportunity to appear today in behalf of the 86 member organizations which comprise the Alliance and also other nonprofit organizations benefitted by the long-standing postal accommodation.

When I appeared before this Subcommittee a year ago, Mr. Chairman, we were awaiting the outcome of a Congressionally-mandated study of all preferred rate mail by the Postal Rate Commission. I noted, however, that the Alliance, in testifying before the Rate Commissioners in March of 1986, had offered three new, innovative and effective methods of computing the revenue forgone requirement that is intended to make the United States Postal Service whole for the services it provides to reduced-rate mailers.

I am happy to be able to say that the Commission recommended our first alternative, that it was passed by the House and the Senate, signed into law as part of last year's Budget Reconciliation Act and is going to relieve the Federal budget, the Congress and the American taxpayer by reducing the revenue forgone authorization by more than one third. This change, not yet effective, simply recognizes the lower attributable cost of preferred rate mail in general. It provides that the revenue forgone authorization be computed by applying to nonprofit and other preferred rate mail the same percentage of markup, or contribution to USPS overhead, as is paid by the comparable commercial class of mail.

That change in the underlying law, while it will help

significantly in the future, is not of great help today as you face the need to appropriate funds for Fiscal year 1988. It will not become effective until January 1, 1989, or concurrently with implementation of a new general rate schedule, if that comes earlier. And, of course, we all are aware that postal management is considering a rate increase that might occur in the middle to late FY 88 time frame. But we dont' know just when and we don't know by how much rates in general, and preferred rates in particular, will rise.

So we are dealing with the revenue forgone issue on the same terms as was the case in past years. That means, according to the Adminstration's budget documents, an authorization of $720,965,000. That is the estimated sum that would be required to return nonprofit and other preferred-rate mail users to so-called Step 16 rates. That is, the level of rates sufficient to cover their attributable costs only with no contribution to the Service's overhead.

Because of the reduced appropriation for FY 86, and because Congress last year chose to maintain the effects of that cut, nonprofit mailers are paying rates which do, in part, contribute to USPS overhead. The Rate Commission's Report of June 18, 1986, stated the cost coverages as 113 percent for nonprofit third-class mail, 112 percent for the fourth-class library rate and 106 percent for nonprofit second-class mail, the three preferred-rate categories generally used by members of the Alliance of Nonprofit Mailers. There is some irony, perhaps, in the fact that cost coverages for regular rate mail range as low as 112 percent in the case of Special Fourth Class mail. In short, the markup on preferred rate library mail is now the same as that on the "non-subsidized" book rate and the special fourth-class markup is lower than that of third-class nonprofit mail.

In calendar year 1986, nonprofit mailers incurred two rate increases. I can tell you that, when you are operating close-to-the-bone, as nonprofit organizations must, planning and budgeting become extremely important. These shortfalls and the ensuing rate increases, imposed with little advance notice, thus consternated nonprofit managers. No wonder that in FY 86, the total volume of nonprofit third-class mail declined. Indeed, for the first quarter of the present fiscal year, volume is essentially flat when compared with the same period a year ago.

Nevertheless, Mr. Chairman, the Alliance does not appear here today to simply ask for appropriation of the full authorized level of funding for revenue forgone, that is, $720 million.

While we believe that would be appropriate, we also are realists. The Alliance -- and this position is supported by the Preferred Rate Coalition which includes other organizations with differing degrees of interest in the issue -- instead asks that you at least freeze the revenue forgone appropriation at the current FY 87 level of $650 million. We recognize that events, such as implementation of a general rate increase, may later permit reduction of this amount. But, in that event, Mr. Chairman, reconciliation procedures already are in place to permit this Subcommittee and the Congress as a whole to make a correction at a later date. Prior-year reconciliation is possible now, of course. But our concern, as representatives of the nonprofit community, is that it not be a one-way street. If this year's appropriation can be reduced because of a prior-year windfall, then we believe the Congress, OMB and CBO should be prepared to make the reverse judgment. It could happen that future year adjustments would run in the direction of an appropriations increase in order to maintain the same relative level of postal rates for eligible mailers. And we would hope that, in the event you find it necessary to report any amount

less than a freeze at $650 million for revenue forgone, the Appropriations Committee would recognize this fair-is-fair approach and so state.

The Rate Commission's Report of last June did also put some flesh on the Administration's repeated proposals to basically end the revenue forgone appropriation process and institute a new plan to provide for preferred-rate mailers. That proposal, however, has been on the table for a nine-month gestation period without, as far as we are aware, so much as delivery of a bill for introduction in either the House or Senate. Perhaps its time will come. If that proves to be the case, then the Alliance is quite prepared to address the proposal.

To sum up, Mr. Chairman, we ask for a freeze, a respite from the cost escalation visited upon nonprofits in calendar 1986, and a chance to gather our breath before the general rate increase that the Postal Service's management now says will be visited on all mail users in a year or so. The 22 cent stamp has remained in effect, commercial rates have not been revised, but the costs of postage for nonprofit mailers rose substantially in 1986. Please, not again in calendar 1987. And do, please, recall that it was the nonprofit community -- and specifically, the Alliance of Nonprofit Mailers -- which advocated the "equal markup" method of calculating the revenue forgone requirement. That is a change in the law that will substantially alleviate budgetary problems in the future.

Finally, Mr. Chairman, I must note that, in our testimony here today, the Alliance has tried to avoid what some might call the hearts and flowers approach. To briefly correct that, I will submit our current membership list for the record and refer you to my statement of last April on the FY 87 Appropriations bill. But I will add that it does not take much perusal of that list to

discover that nonprofit institutions such as those I proudly represent here today are in the forefront when it comes to addressing many of the pressing issues facing you, the peoples' representatives, including productivity, environmental quality, the homeless, the aged, our myriad health concerns, research and the dissemination of scientific knowledge, education, cultural advancement, religious activities, family values, rural values, minority interests, consumer information, plain old philanthropy whether foreign or domestic, disaster relief, child development and community in its broadest sense.

We of the Alliance truly believe that the postal accommodation codified in Section 3626 of Title 39 of the U.S. Code has, is and will continue to serve our nation well indeed. It is a good investment for the return our society realizes. We hope you will fund it.

STATEMENT OF RONALD W. GERDES, LEGAL COUNSEL, NATIONAL BONDED WAREHOUSE ASSOCIATION

The National Bonded Warehouse Association was formed in August 1984 to represent the interests of almost 1,500 Customs bonded warehouses located throughout the United States. These member warehouses participate in the export and import trade of all our major ports, and also handle special Customs problems such as the storage of unclaimed property, or property which has been seized because of violation of U.S. statutes. For the past five years, Customs has supervised and administered bonded warehouse activities through an audit-inspection program. Bonded warehouses reimburse Customs fully for the administrative expenses attributal to the implementation of this regulatory program.

The National Bonded Warehouse Association wishes to express its concern over the diminishing ratio of Customs personnel to the growing workload at hand. As everyone knows, the Customs Service workload has been increasing rapidly over the past six

years. Merchandise entries alone have increased over sixty-five percent. Yet, even as the Customs Service workload has increased, the number of personnel have remained static. The Administration's policies have time and again thwarted Congressional attempts to augment the Customs budget to meet the increasing demand.

Not only has the Administration failed to increase the number of Customs personnel, but every year it has faithfully requested reductions. OMB's recision request for FY-1987 would eliminate 1500 of the 15,000 authorized Customs personnel. Further, the Administration has requested an additional cut of 500 personnel for the budget of FY 1988.

The NBWA members oppose the Administration's backhanded attempt to prevent Customs from hiring the number of personnel authorized by the Congress. The mere filing of the Administration's recision request effectively prevents Customs from spending the full amount authorized in the budget until the recision is either accepted or rejected by Congress. At that point in time, uncertainty over the next fiscal year's budget effectively stalls the hiring process for new personnel, and the cycle is started over again. By Customs own admission, there were 1,300 authorized, but unfilled positions for FY 1986. For FY 1987, it appears that the number could increase to 2,000 positions. It appears that the Senate Finance Committee is also perturbed with the Administration's recission requests. As expressed in Senate Finance Committee report 100-23, "the committee is very concerned that the Administration desist from again attempting, as it has with regard to FY 1987 appropriations, to cut the budget of the Customs Service through unilateral deferrals and recissions of appropriations that run counter to the expressed will of the Congress."

Of particular concern to the National Bonded Warehouse Association is that the bulk of Administration's proposed reci-

sion, almost $45 million, is coming out of the Office of Inspection and Control, the section of Customs which affects bonded warehouses most directly.

Bonded warehouse propietors pay for Customs' service both through an annual fee for Customs audit - inspection program for bonded warehouses, and as importers through the import user fee and normal Customs duties.

The annual fee paid by bonded warehouses for Customs audit progam has increased from $650 per location in 1984 to up to $5000 per location in 1986. In February, 1987, the NBWA filed a class-action suit with the Court of International Trade challenging the validity of these huge increases in the annual fees charged bonded warehouses. What's worse, however, this increase of up to 670% has not been accompanied by better service.

Local Customs officials have been reluctant to approve new bonded warehouses, even if they would increase local employment and exports, because of the shortage of Customs personnel. Other bonded warehouse proprietors have experienced delays in getting Customs to do the necessary background checks and paperwork. When queried as to the reasons for the delay, Customs personnel cite a backlog of other work. Customs is also attempting to significantly restrict the number of locations where cargo will be inspected. It seems ironic that the bonded warehouses should receive such treatment when they pay for <u>all</u> of the services provided by Customs.

Obviously, all aspects of the trade community are adversely effected by an understaffed and underfunded Customs Service. What we find most ironic is that over the last several years the Administration has begged and pleaded with the Congress to enact broad-based "user" fees to fund Customs operations. Congress,

over the strenuous objections not only of the N.B.W.A., but the entire trade community, succumbed to Administration pressure and enacted these fees over the course of the last Congress. The Administration's response has been to pocket the increased fees and request fewer personnel than before the fees were enacted. While this result is not a surprise based upon our experience with the bonded warehouse annual fees, it is a result the Congress should not condone.

In conclusion, while we recognize that programs such as automation have helped to improve Customs efficiency, as a major component in the movement of international trade, we are reminded on a daily basis that the Customs Service simply cannot cope with nearly a 300% increase in import volume and all the other new demands it faces with less staff than it had in 1976. Incredible as it may seem, that is what the Administration's FY 88 budget seeks. NBWA supports at least the level of funding authorized by the Senate Finance Committee and passed by the Senate, which would allow the Customs Service to continue its services at a level commensurate with that authorized for FY 1987.

As a law enforcement agency designed to protect the American public from illegal imports; as regulatory agency designed to protect domestic industry and farmers; as a tax collector who collects roughly 20 times what it spends; and as a part of the trade policy apparatus to help the U.S. exporter; the Customs Service deserves to be properly funded.

STATEMENT OF ROBERT W. CRANDALL, EXECUTIVE DIRECTOR, WESTERN STATES COALITION FOR EFFECTIVE U.S. CUSTOMS SERVICE

My name is Robert W. Crandall. I am the General Manager of the Marine Terminals Department of the Port of Oakland with direct responsibilities related to management and marketing of maritime facilities for the Port.

BACKGROUND

I am appearing before this committee today on behalf of both the Port of Oakland and The Western States Coalition for Effective U.S. Customs Service, on whose Executive Committee I represent the Port of Oakland. As background, the first portion of my testimony will describe the Western States Coalition's recent activities. The Coalition is an effort originally organized in 1985 by the major Pacific coast ports of Long Beach, Los Angeles, Oakland, Portland, San Diego, San Francisco, Seattle and Tacoma. Some of these ports also operate international airports. Representatives of these ports joined by the Los Angeles International Airport make up the Coalition's Executive Committee with the responsibility of directing the activities, coordinating the policies and setting the goals of the Coalition. The primary goal of the Coalition is to seek effective U.S. Customs Service on behalf of the Pacific coast Gateways and the shipping lines, railroads, trucking firms and air lines that serve them as well as international shippers of cargo and passengers.

The Coalition was organized in 1985 because of the very serious concern over the short term and long term implications of inadequate facilitation of U.S. Customs Service Cargo clearance and inspection services of cargo and passengers at our Pacific Coast seaports and airports.

Although these ports are traditionally very competitive, we have agreed to set aside competitive considerations in this instance and work together in this Coaltion for the common benefit and need of all Pacific Coast ports.

We assert this organized effort is essential for the Pacific Coast ports and equally, perhaps even more fundamentally essential for all interests involved with international trade who desire to use Pacific Coast port facilities. We also say this organized effort is necessary because of the natural geographic advantages of our Pacific Coast ports as a result of recent structural changes in water and rail transportation technology and international trade movements. This will be elaborated on further.

The full text of the Coalition's Policy State is attached (See Exhibit #1) In summary it states:

1. Differences in Customs facilitation capabilities (and other inspection services) among ports should not become a competitive issue.
2. Each port can seek to ensure adequate facilitation services but not in a manner detrimental to other West Coast ports.
3. The Coalition seeks the broadest membership base possible of all interests involved with international trade.
4. The Coalition desires to achieve its objectives through a

constructive dialogue with the U.S. Customs Service at the local, regional and national level and believes the interests of the membership and the U.S. Customs Service can best mutually be served through open communication and cooperation. We also seek the same constructive dialogue and cooperation from other government inspection agencies.

The full text of the Coalition's Statement of Goals is attached (See Exhibit #2), but in summary it states:

1. To secure and maintain a level of Customs facilitation (and other inspection services) adequate to support the needs of all West Coast ports.
2. To ensure that present and future staffing of inspectors and support personnel at all West Coast ports is reflective of the significant role that the West Coast plays in United States foreign trade and its growing role relative to other coastal ranges.
3. We recognize the need for automation of inspection services and will actively cooperate with their implementation, but we declare this must be done to avoid cargo dislocations among ports and in and orderly manner that will maintain the effective flow of cargo.
4. To cooperate with the customs broker community to carry forward cooperative facilitation programs.
5. To work toward procedures which will facilitate the needs of the rapidly changing intermodal transportation system while recognizing the enforcement responsibilities of the U.S. Customs Service.
6. To ensure that West Coast Ports have meaningful input to the U.S. Customs Service decision making process concerning staffing and administering U.S. Customs Service enforcement and trade facilitation responsibilities.
7. To ensure to the greatest extent possible uniform application of U.S. Customs Service procedures at all West Coast ports through a regional organization structure overseeing the activities of the West Coast Customs Districts.

IMPORTANCE OF PACIFIC COAST PORTS IN TOTAL U.S. INTERNATIONAL TRADE

There is ample evidence that the Pacific Coast ports are in a unique position in relation to the international trade flow and commerce of the United States.

Since the late 1970's, the Pacific Rim nations have surpassed the Common Market countries as U.S. trading partners. In 1980, for the first time, the value of international commerce moving between Pacific Rim nations and the

United States exceeded the value of international commerce between Western European nations and the United States and this trend is forecasted to increase. The value of trade in 1985 between the U.S. and Western European nations was $136.9 billion while the value of trade between the U.S. and Pacific Rim nations was $179.5 billion. (See Exhibit #3)

In 1971, the West Coast share of total U.S. Liner foreign trade exports to the Far East area in short tons was 41% of the total or in actual tons 1,956,000 short tons. By 1985, the percentage share had increased to 75.5% through the West Coast ports and tonnage was 9,149,000 short tons. (See Exhibit #4)

Liner imports from the Far East area through West Coast ports in short tons in 1971 was 38.4% of total U.S. imports from the Far East or 2,633,000 short tons. By 1985, the West Coast share had increased to 71.9% of total U.S. imports from the Far East or 10,200,000 short tons. (See Exhibit #4)

There has also been a significant shift in the West Coast market share of South East Asia Cargo as is shown in Exhibit #4.

In the 14-year period from 1971 to 1985, the West Coast share of total U.S. waterborne liner exports worldwide increased form 18.8% to 38.4%. Over this same 14-year period, exports in absolute tonnage amounts moving through West Coast seaports increased 8.4 million short tons from 4.8 million short tons in 1971 to 13.2 million short tons in 1985. (See Exhibit #4 and #5).

Imports worldwide through West Coast ports increased 10.5 million short tons from 4.6 million short tons in 1971 to 15.1 million short tons in 1985 and the West Coast percentage share increased form 18.9% of total worldwide imports in 1971 ro 36.8% in 1985. (See Exhibit #4 and #5)

During this same time period (1971 to 1985), the West Coast share of total U.S. waterborne liner trade (exports and imports) occurred during a timeframe when total international liner waterborne trade moving through West Coast seaports increased from 9.4 million short tons in 1971 to 28.3 million short tons in 1985. (See Exhibit #5)

Containerized cargo growth through West Coast ports from 1971 to 1986 has increased at a compound growth rate of 15%. (See Exhibit #6)

U.S. CUSTOMS RESEARCH PAPER

Since the formation of the Coalition two years ago, a project has been undertaken to develop a research paper on Customs Facilitation. Consultant proposals were requested and the firm of Booz, Allen and Hamilton was selected to conduct the study. We anticipate the final research paper will be available

in June. We had hoped to have it available for this and related Congressional Appropriations hearings but delays in obtaining certain information from the U.S. Customs Service has delayed the research project. The objective of the research document is to provide a factual, objective analysis on present and future required facilitation needs of U.S. Customs to handle the growing cargo and passenger movement through the U.S. Pacific Coast seaports and airports. The research document will serve as the basis for a complete analysis of the present status of U.S. Customs Services and should assist in planning for future needs with respect to the automated clearance of cargoes through our Pacific Coast ports system and airports and expeditious inspection procedures for international passengers.

It is our intention to conduct a presentation of this research paper and its recommendations with the members of this committee and staff and with other interested members of Congress who share with us our concern for the need of improving and maintaining effective U.S. Customs service. The Coalition will be in further contact with the Committee as soon as a firm date of the reports availability is established. On behalf of the Coalition members, I would like to express our appreciation to the Congress and members of this committee for your continuing assistance in providing adequate U.S. Customs staffing to facilitate the flow of commerce and passengers through West Coast seaports and airports.

PORT OF OAKLAND CUSTOMS PERSONNEL REQUIREMENTS

In the remarks that follow, I am speaking specifically on behalf of the Port of Oakland with respect to the staffing requirements we see necessary to maintain satisfactory service levels for those seaports and airports served by the San Francisco Customs District. The request that we make with regard to increased staffing requirements is based upon a number of recent changes that have occurred in water and rail transportation technology and in international trade patterns, resulting in an increase in workload within the San Francisco Customs District.

Growth in container vessel size and capacity results in increases in the number of containers that are loaded or discharged during a given port call. As an example, the newest ships shortly to enter service are approximately 900 feet in length with a beam of 135 feet and a container capacity of 4,000 twenty foot equivalent units, 30 percent more capacity than current containerships. These expensive vessels will also seek to minimize their time in port thereby requiring more rapid discharge.

Changes in rail movement technology using double stack unit trains tied to vessel schedules will require speedy release of cargo for inland movement. With the full automation of customs cargo clearance still years

away, the demand for reduced ship time in port coupled with increases in the number of containers to be handled and the need for prompt transfer to the inland transport system will impose additional workload on the U.S. Customs Service staff.

The driving force of these changes in vessel size and changes in rail technology is the growth in Pacific Basin trade. Growth projections of approximately 11% annually will mean a quadrupling in volume of containers moving through the West Coast by the year 2,000. We believe the 11% growth rate is realistic given the recent years actual experience of 15% annual growth. The Port of Oakland is positioning itself to participate in this growth, the largest component of which will come from imports in the Trans-pacific trade. For example, the Port plans to invest $90 million of its own funds over the next 21 months in facility expansion and transportation infrastructure. (See Exhibit #7)

A review of the past and present staffing of the San Francisco Customs District is necessary as a reference point for actual personnel requirements that are necessary to adequately handle the growing cargo and passenger volume. (See Exhibit # 8)

Total on-board staffing in the San Francisco Customs District declined from 371 personnel in fiscal year 1981 to 319 as of April 1, 1987 - a decline of 14%.

This decline in total personnel occurred during a period when formal entries amounted to 184,152 in fiscal year 1981 and is anticipated to increase to an annualized volume in fiscal year 1987 of 391,880 or a 113% increase. International passenger and crew volume amounted to 917,163 in fiscal year 1981 and is anticipated to increase to and annualized volume of 1,468,606 in fiscal year 1987. (See Exhibit #9)

Adequate staffing to accomodate current workload requires the addition of 60 new Customs personnel broken down in the following categories:

30 new cargo inspectors
10 new import specialists
20 new support personnel

Even with the addition of the 60 new positions required currently, this would not bring the San Francisco Customs District staffing up to the level of staffing authorized in fiscal year 1981.

The increasing workload of clearing formal entries as evidenced by a 113% increase in numbers since 1981 and the growing passenger volume of 38% since 1981, clearly indicate a need for additional personnel in spite of any claims of manpower savings through automation that is not fully in place.

We are sensitive to the entire scope of responsibilities borne by the U.S. Customs Service. We recognize there is a need for increased attention to drug interdiction. Also significant demands in the enforcement area of Customs workload must also be recognized among many other complex and demanding requirements placed on U.S. Customs.

We further recognize that the U.S. Customs Service is also moving forward with new automated systems for clearance of passengers and entry of cargoes which have the interim effect of causing diversion of personnel during this transition from manual to automated systems. The above factors have all combined to increase the overall workload. Our own experience based on contact with steamship lines, Customs House brokers, freight forwarders and consignees receiving cargo is that in some cases there have been increases in delays and continuing problems in coordinating cargo release.

In 1986 the Congress passed legislation signed by the President establishing user fees to be assessed against cargoes based on value. One of the conditions establishing the user fee was that adequate service levels of facilitation be furnished and maintained.

In conversations with San Francisco District Customs officials we have been informed of a study being conducted by the U.S. Customs Service in Washington, D.C. requesting from each Customs District the staffing requirements to meet the level of service required by the User Fee bill.

Specifically each District has been requested to determine the number of additional personnel required to attain an adequate level of service and a separate figure of the number of personnel to attain adequate and expeditious service based upon a service level criteria established by the U.S. Customs Service in Washington, D.C.

For the San Francisco District, it has been determined that an additional 125 personnel will be required to maintain an adequate level of Customs service. 103 of these new personnel would need to be in the Inspection and Control function and 22 in the Classification and Value function. To maintain an adequate and expeditious level of service, 200 additional personnel will be required. Of the 200 additional personnel required for adequate and expeditious level of service, 157 new positions would be required in the Inspection and Control function and 43 new personnel would be required in the Classification and Value function.

If the User Fee bill is to accomplish its objective, we believe the U.S. Customs Service staffing should be at the level of service required by the International Trade Communnity and International passengers. Assuring that U.S. Customs staffing is at the criteria of service level for adequate and

expeditious service would be essential to achieve what the User Fee bill intended. Further, the very nature of the User Fee bill is for the users of the service to pay for the service and so it does seem appropriate to suggest that the users get an adequate and expeditious level of service.

In concluding my remarks I would again thank the members of this Committee for this opportunity to present this statement and for the support you have given to the Port of Oakland and to the efforts of The Western States Coalition for Effective U.S. Customs Service.

EXHIBIT # 1

WESTERN STATES COALITION FOR EFFECTIVE U.S. CUSTOMS SERVICE

Policy Statement

The members of the Coalition believe that differences in Customs facilitation capabilities (and other inspection services) among ports should not become a competitive issue among the U.S. West Coast ports. Each member of the Coalition supports the concept of the necessity for a satisfactory level of Customs facilitation at all West Coast ports. A less than satisfactory level of facilitation at any West Coast port is unacceptable to the members of the Coalition.

While each member of the Coalition appropriately reserves the right to carry forward its own program to ensure adequate facilitation services in its own local area, such programs will be designed and implemented in a manner which will not be detrimental to the interests of any other West Coast port.

While the Executive Committee of the Coalition consists solely of West Coast public port authorities, the members recognize the desirability of having the broadest membership base possible of public and private sector interests and welcomes participation of all interested parties including but not limited to shipping lines, airlines, terminal operators, inland transportation companies, customs brokers, importers, and exporters.

The Coalition desires to achieve its objectives through a constructive dialogue with the U.S. Customs Service at the local, regional and national level and believes the interests of the membership and the U.S. Customs Service can best mutually be served through open communication and cooperation.

EXHIBIT #2

WESTERN STATES COALITION FOR EFFECTIVE U.S. CUSTOMS SERVICE

Statement of Goals

1. To secure and maintain a level of Customs facilitation (and other inspection services) adequate to support the needs of all West Coast ports.

2. To eliminate differences in facilitation levels as a potential competitive factor among West Coast ports.

3. To ensure increased Customs staffing provided for one West Coast District is not provided at the expense of another West Coast District.

4. To ensure that present and future staffing of inspectors and support personnel at all West Coast ports is reflective of the significant role that the West Coast plays in United States foreign trade and its growing role relative to otl.er coastal ranges.

5. To achieve a level of automation of inspection services capable of handling current and future trade volumes implemented in an orderly manner and designed to facilitate efficient cargo flows.

6 To cooperate with the U.S. Customs Service in the implementation of automated inspection systems through a program of coastwide involvement and communication to avoid cargo dislocations among ports caused by facilitation variances.

7. To cooperate with the customs broker community to carry forward cooperative facilitation programs.

8. To generate the broadest possible base of support among all interested parties to ensure an adequate level of Customs facilitation for the present and future at all West Coast ports.

9. To work toward procedures which will facilitate the needs of the rapidly changing intermodal transportation system while recognizing the enforcement responsibilities of the U.S. Customs Service.

10. To ensure that West Coast ports have meaningful input to the U.S. Customs Service decision making process concerning staffing and administering U.S. Customs Service enforcement and trade facilitation responsibilities.

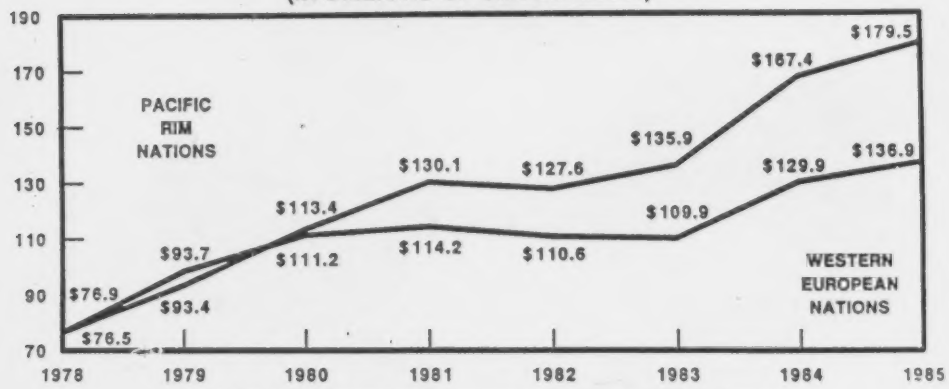
11. To ensure to the greatest extent possible uniform application of U.S. Customs Service procedures at all West Coast ports through a regional organizational structure overseeing the activities of the West Coast Customs Districts.

EXHIBIT #3

PORTOFOAKLAND

THE CHANGING CURRENT TOTAL TRADE WITH U.S.

(IN BILLIONS OF U.S. DOLLARS)



SINCE 1980 PACIFIC RIM NATIONS HAVE SURPASSED WESTERN EUROPEAN NATIONS AS U.S. TRADING PARTNERS

SOURCE: U.S. DEPT. OF COMMERCE

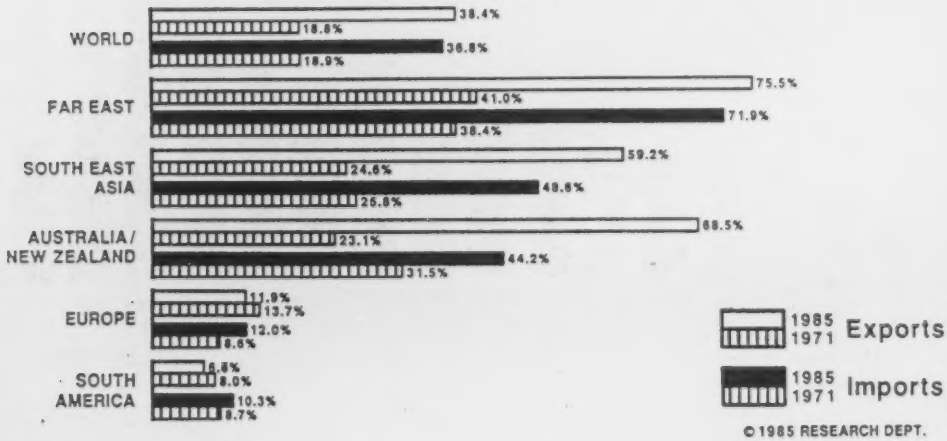
© 1985 RESEARCH DEPT.

EXHIBIT #4

PORTOFOAKLAND

WEST COAST SHARE OF U.S. LINER FOREIGN TRADE

SHORT TONS



© 1985 RESEARCH DEPT.

EXHIBIT #5

PORT OF OAKLAND

TRADING PARTNERS - SHORT TONS
U.S. WEST COAST LINER TRADE
1985

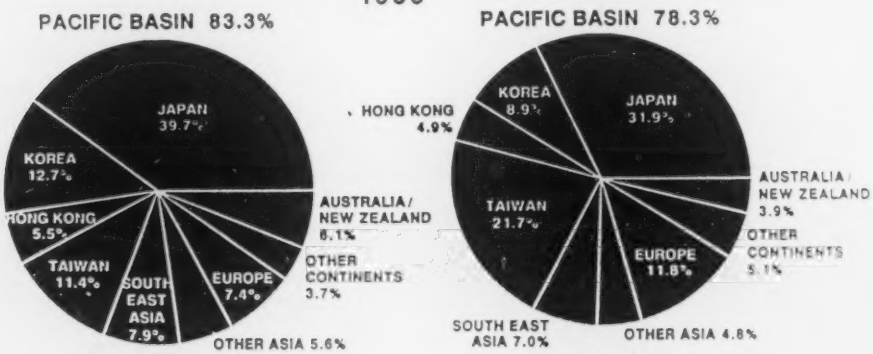


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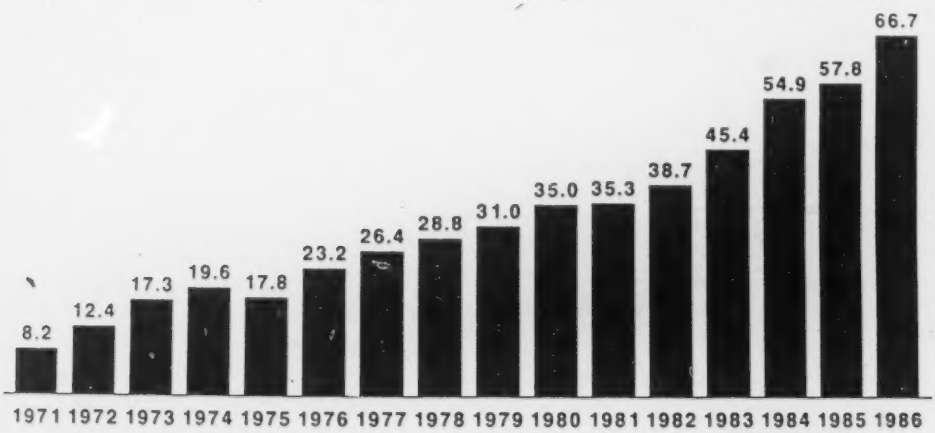
EXHIBIT #6

PORT OF OAKLAND

West Coast Container Tonnage

(1971-1986) Million Revenue Tons



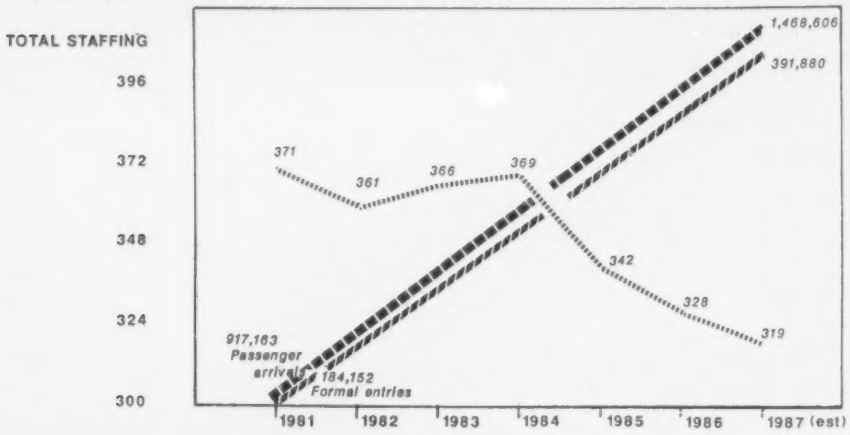
Source: Pacific Maritime Association

© 1987 Port of Oakland

EXHIBIT 9

SAN FRANCISCO CUSTOMS DISTRICT
PERSONNEL STAFFING FROM 1981 to 1987

COMPARED TO NUMBER OF FORMAL ENTRIES AND ARRIVING INTERNATIONAL PASSENGERS/CREW



- Arriving International Passengers/Crew have increased 38% from 1981-1987
- Formal Entries have increased 113% from 1981-1987
- Total On Board Staffing has decreased 14% from 1981-1987

STATEMENT OF THE NATIONAL DEMOCRATIC POLICY COMMITTEE

Thank you Mr. Chairman for the opportunity to bring certain issues pertaining to the Federal Election Commission to the attention of this committee.

It is very apparent to the National Democratic Policy Committee that the FEC has functioned in a selective and vindictive manner especially towards the campaigns of Mr. Lyndon LaRouche and certain other candidates that have associated themselves with Mr. LaRouche and his platform. This is a longstanding pattern of abuse. For example, federal district judge in the Southern District of New York, regarding an FEC investigation into Mr. LaRouche's 1976 and 1980 campaigns, declared that "it would be hard to imagine a more abusive visitation of bureaucratic power than has already been imposed upon this relatively insignificant splinter group." (Memorandum and order dated April 5, 1982 in Dolbeare v. Federal Election Commission, No. 81 Cov. 4468-CLB, S.D.N.Y.)

Yet other campaigns involved in relatively gross violations are often not even investigated while the FEC pleads that it doesnot have the resources.

Mr. Chairman, the NDPC would recommend that the FEC be dismantled. At the very least, the NDPC would recommend that a thorough review of the FEC be undertaken prior to the campaign reform legislation before the Senate is acted on.

I would like to include with my statement the following memorandum which was presented by Attorney Daniel Alcorn of Arlington, Va., before Federal Court in Boston, Mass. on behalf of The LaRouche Campaign et al., in the case of the United States of America v. The LaRouche Campaign et al.

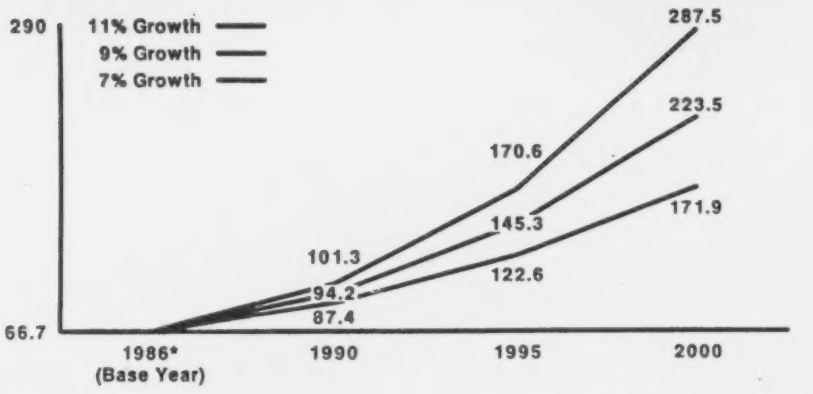
UNITED STATES OF AMERICA
v.
THE LAROUCHE CAMPAIGN, ET AL.

EXHIBIT #7

PORT OF OAKLAND

Projected West Coast Container Tonnage

Million Revenue Tons



*Source: Pacific Maritime Assoc.

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EXHIBIT #8

U.S. CUSTOMS SAN FRANCISCO DISTRICT STAFFING

	Inspectors Average		Import Specialists Average		Other Average		Other Average	
	Authorized	On-Board	Authorized	On-Board	Authorized	On-Board	Authorized	On-Board
Fiscal Year 1981	152	149	57	54	176	168	385	371
1982	149	150	54	53	168	158	371	361
1983	155	155	55	51	166	160	376	366
1984	154	151	55	47	171	171	380	369
1985	147	146	48	42	161	154	356	342
1986	143	141	51	46	157	141	351	328
Through 3/31/87	140	136	51	48	152	138	343	322
Actual 4/1/87	140	133	51	49	153	137	344	319
Actually Required		163		59		157		379

MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS SUPERSEDING
INDICTMENT ON GROUNDS OF
DISCRIMINATORY AND SELECTIVE
PROSECUTION AND VINDICTIVE
PROSECUTION

The following memorandum was presented by Attorney Daniel Alcorn of Arlington, Va., before Federal Court in Boston, Mass. on behalf of The LaRouche Campaign et al., in the case of the United States of America v. The LaRouche Campaign et al.

The Defendants (being all Defendants other than Roy Frankhouser) hereby present this memorandum In Support of their Motion before this Honorable Court to dismiss the superseding indictment in this case as being in violation of the Fifth Amendment to the Constitution of the United States for the reasons as follow:

This Memorandum will show those facts in the possession of the Defendants supporting the defense of selective prosecution. The detailed factual sections of this Memorandum demonstrate that 1984 Presidential candidates other than Lyndon LaRouche were not proceeded against criminally for similar acts to those alleged in this indictment. The facts alleged also show that the motive for this action was a concern on the part of certain persons in government that Mr. LaRouche's politics and policies were gaining too much influence. In short, defendants believe that the government, for political reasons, is trying to eliminate the LaRouche political influence through this prosecution.

II. FACTUAL BACKGROUND OF ALLEGED CAMPAIGN IRREGULARITIES

Lyndon H. LaRouche, Jr. of Leesburg, Virginia campaigned actively in 1984 for election to the office of President of the United States. Mr. LaRouche sought the nomination of the Democratic Party by entering 13 primary elections. The organizational vehicle for this campaign was Defendant The LaRouche Campaign (TLC), a principal campaign committee registered with the Federal Election Committee (FEC). During the nomination phase of the campaign Mr. LaRouche received 123,649 votes in primary elections. TLC raised substantial funds and received authorized payments of Federal Electional Matching Funds of approximately $500,000.

After the Democratic Party nominated Walter F. Mondale, Mr. LaRouche campaigned for President as an "independent Democrat." The campaign organization for this political effort was Defendant, Independent Democrats for LaRouche (IDL). Mr. LaRouche was placed on the ballot in the general election for President in 1984 in 19 states. He received 78,807 votes in the election.

Mr. LaRouche campaigned in speeches, meetings and nationwide television broadcasts in 1984 on what is generally perceived as a highly controversial policy platform. He supported strongly the U.S. Government's Strategic Defense Initiative (SDI) and cited accurately the Soviet Union's now well-known resolve to prevent implementation of this U.S. strategic program.

A. THE LAROUCHE-NATIONAL SECURITY COUNCIL CONNECTION

During the 1984 campaign a number of U.S. media organizations attempted to focus attention on the growing policy influence of Mr. LaRouche and his associates on the highest levels of the U.S. Government. In March 1984 NBC Television News aired a report on its First Camera news program which investigated, among other issues, the acknowledged relationships which had been established in 1981 through 1983

between Mr. LaRouche and the National Security Council (NSC) staff in the White House. NBC aired an interview with Dr. Norman Bailey, Director of International Economic Policy for the NSC staff, who acknowledged a flow of policy input from Mr. LaRouche and his associates into the NSC decision-making process during the 1981-83 period. Dr. Bailey said Mr. LaRouche and associates were "one of the best private intelligence services" in the world, and defended the White House policy of taking information from any source in the process of national security decision making.

Following the First Camera report, the weekly public affairs magazine The New Republic commissioned a further investigation of Mr. LaRouche's influence on NSC deliberations. This article, written in part by a long-time bitter opponent of Mr. LaRouche, Dennis King, was released by The New Republic via a press release on October 31, 1984, scarcely a week before the national election, on November 6, 1984 under the title "The LaRouche Connection." The article is filled with invective against Mr. LaRouche resulting from a long-running feud with Mr. King, and those portions should be discounted for that reason. The timing of release of the article apparently was intended to harm the Reagan re-election campaign by linking his administration's policy making to LaRouche and associates. As this Court will realize, the timing of this article was simultaneous with the beginning of Mr. William Weld's highly unusual prosecution of Mr. LaRouche and associates in this case.

B. BEGINNINGS OF THE WELD INVESTIGATION

The acknowledged facts of the time of the beginning of this case merit some discussion in light of the timing of the First Camera report and The New Republic article detailing Mr. LaRouche's connections to the National Security Council and the general election of November 1984. FBI agent Richard Egan (in charge of the FBI investigation of this case) testified at the detention hearing of Defendants Spannaus, Greenberg and Scialdone in this case that Mr. LaRouche came to his attention in October 1984 from citizen complaints and from a television news report critical of Mr. LaRouche aired by the NBC affiliate in Boston, WBZ-TV on or about October 29-31, 1984. WBZ-TV news reported that Mr. Weld had empanelled a grand jury in Boston to investigate Mr. LaRouche. Mr. Egan testified further that he telephoned the bank in New Jersey handling IDL and TLC accounts on or about October 31, 1984 to inform the bank that IDL and TLC were under investigation for fraud and to expect a subpoena for bank records of those organizations. Mr. LaRouche's election-eve broadcast of 30 minutes scheduled to be aired nationwide on the night before the national election was cancelled when the bank froze IDL and TLC accounts following Mr. Egan's telephone call. Not only was Agent Egan active on October 31, 1984, an FBI telex message released pursuant to the Freedom of Information Act reveals that Mr. Weld was personally involved on that day. The message from FBI Boston to FBI Director states, "United States Attorney, William F. Weld, Boston, advised on October 31, 1984, that he wishes to move expeditiously in this matter since it affects the integrity of the Presidential election process." (See Exhibit 11)

Therefore without characterizing these facts further here, it can be said that actions of Mr. Weld, NBC affiliate WBZ-TV and FBI agent Egan based upon unproven allegations worked in concert to halt Mr. LaRouche from addressing the nation on CBS-TV network the night before the 1984 U.S. Presidential election in which Mr. LaRouche was a qualified candidate in 19 states. Coincidentally or not, these events occurred at a time when Mr. LaRouche's connections to White House policy making on

crucial national security issues was an item of discussion in political circles.

The purpose of detailing these facts in chronological context is to point out a portion of the evidence of motive on the part of Mr. William Weld in this case. Defendants believe that motive was to stop Mr. LaRouche's growing political and policy influence through a prosecution of key associates of Mr. LaRouche on as many legal theories as possible. The facts are unusual--at the beginning of the case and throughout the case to this date. This motion states the Defendant's contention that not only are the facts of the handling of the case unusual, they constitute a case of selective and discriminatory prosecution and prosecutorial vindictiveness in violation of the due process standards of the Fifth Amendment to the Constitution of the United States.

C. NEWS GATHERING OF INTEREST TO INTELLIGENCE AGENCIES

Mr. LaRouche and associates are affiliated in varying degrees through an international news gathering organization called the New Solidarity International Press Service (NSIPS), best known by its principal publication, the newsweekly Executive Intelligence Review (EIR). This news service maintains offices in 12 countries as well as 19 offices in leading cities in the United States. The writers for this service investigate and analyze world-wide critical political events. Predictably this information network became of interest over a decade ago to the intelligence services of various nations, including the U.S. Central Intelligence Agency and the FBI. Given the covert operational technique of these secret services, NSIPS is only partially aware of the extent of efforts made to surveil, penetrate or otherwise affect NSIPS operations.

However, NSIPS, being a news service, has not avoided contact with the United States Government for the reason that it is not averse to sharing information with the government in projects of mutual concern. For over 11 years Mr. LaRouche and associates have maintained a dialogue with elements of the U.S. Government on selected issues, usually those of foreign intelligence gathering and long-range policy concerns. Mr. LaRouche and associates have purposefully avoided formal attachments to the CIA (and other secret services) in order to maintain independence of thought and analysis.

The government's witnesses (revealed by Agent Egan in his testimony at detention hearings in this case) Roy Frankhouser, and the unindicted Forrest Lee Fick, represented themselves to Mr. LaRouche and associates as a channel of communication with the CIA. Mr. Frankhouser served in this self-described role from 1975 to the time of his indictment, while Mr. Fick came forward under this pretext through Mr. Frankhouser's recommendation in 1982. The official nature of this contact has been confirmed by reliable information, the revelation of which might involve release of classified national security information. The nature of their role has been further confirmed by Mr. Frankhouser's otherwise inexplicable access to U.S. Government intelligence documents, as well as Mr. Frankhouser's use of U.S. intelligence tradecraft. In addition, the U.S. Government has admitted in court documents the truth, among others, of Mr. Frankhouser's covert operational role on behalf of the NSC for the Nixon White House in 1972.

Mr. Fick's self-admitted status as a CIA operative working in the realm of infiltration of international paramilitary organizations has been confirmed by reliable information, the release of which might involve a release of classified national security information. Mr. Fick is publisher of the

internationally circulated "Dragon Fire" newsletter. "Dragon Fire," according to Fick is funded by the U.S. Government under the auspices of the CIA as a method to infiltrate and influence international paramilitary terrorist groups.

The association of some Defendants with Frankhouser and Fick is, according to the latter two, a channel of communication to the CIA and perhaps other U.S. Government agencies at the request of those agencies.

In this context it is interesting to note FBI agent Richard Egan's testimony on October 9, 1986 at a detention hearing in this case in which he stated that he had not checked with the CIA to determine the status of Mr. Frankhauser and Mr. Fick with that agency, despite his knowledge that these persons had made the claim of CIA affiliation to the Defendants for a period of years.

The facts can be summarized at this point as follows: Mr. LaRouche and associates over a period of approximately 20 years have engaged in First Amendment freedoms of political organizing, publishing and speaking out on issues. By creating an international association, Mr. LaRouche and associates came to the attention of various intelligence services, including the CIA. Persons approached LaRouche associates claiming to be contacts for the CIA, e.g (Frankhouser and Fick) bearing sophisticated information which plausibly could come from the CIA.

At the beginning of the Reagan administration, LaRouche and associates gained access to the highest level of government, i.e., the National Security Council at the White House. This access and input became publicly known and debated during the 1984 campaign. At the height of publicity over this connection, Mr. Weld initiated his extraordinary investigation of LaRouche and associates.

The government's case supposedly originated with the "credit card fraud" irregularities alleged during the LaRouche 1984 presidential campaigns. It is appropriate to review how the government had treated similar irregularities in other Presidential campaigns in 1984.

III. IRREGULARITIES IN OTHER 1984 PRESIDENTIAL CAMPAIGNS

In 1984 U.S. Senator Alan Cranston (D-Calif.) sought the Democratic presidential nomination. During the Federal Election Commission (FEC) audit of the Cranston campaign, the FEC discovered a pattern of "bad checks" issued by the Cranston Campaign. The FEC "Bad Check List-Final" lists a total of 736 checks totalling $166,498.07 which were returned as insufficient funds checks, i.e. "bounced checks" in the vernacular.

The FEC Final Audit Report states on this issue, "The Commission has not previously encountered the issuance of insufficient fund checks on such a large scale by a publicly-funded committee. Here the Committee issued hundreds of bad checks under circumstances suggesting either knowledge that the checks were unsupported or at least disregard for whether there would be sufficient funds to cover the checks.;qC

The government's solution to this pattern was to disallow federal matching funds for the $5,502 of bank returned check charges incurred by the Cranston campaign. There was no criminal investigation nor a criminal prosecution of Mr. Cranston, his campaign Committee staff and associates.

By contrast, the indictment in this case charges a total dollar amount of approximately $58,000 of "unauthorized credit card charges" from 58 individual complaints against Mr. LaRouche's campaign committees and other organizations and corporations; using theories of wire and mail fraud.

The government certainly could have investigated the Cranston campaign for wire and mail fraud for use of the mails and telephones to engage in the Cranston bad check scheme. Yet there is no indication that such an investigation was contemplated, even less conducted. In the LaRouche matter, according to FBI agent Egan, the FEC turned over all of its files to William Weld and assisted criminal prosecution at every step. Also, FEC Associate General Counsel Kenneth A. Gross has testified that the FEC made a formal referral of LaRouche campaign matters to the Department of Justice and Mr. Weld.

In 1984 then U.S. Senator Gary Hart (D-Colo.) sought the Democratic nomination for President. Similarly to the Cranston campaign, the FEC determined in its final audit report of the Hart campaign that:

A review of the Committee's disbursement activity revealed that the Committee was charged $4,862.00 in service charges for checks drawn on accounts with insufficient funds.... In response to the (Hart) Committee's argument that the overdrafts were non systematic and inadvertent and primarily occurred in state and local accounts, a review of the overdraft charges reveals that the majority of the charges were in fact from the Committee's headquarters operating account and two state accounts.... Therefore it appears that the overdrafts in these two state accounts occurred at a crucial time period in the campaign in those two states when an adequate cash flow was most important...;

As in the Cranston case the FEC's sole response to this pattern of bad checks was to disqualify the bank service charges for federal matching funds payments. There were no criminal investigations of Senator Hart, his campaign, staff and associates for mail or wire fraud, and there was no referral of the matter to the Department of Justice.

In 1984 U.S. Senator John Glenn (D-Ohio) sought the Democratic nomination for President. During Senator Glenn's short-lived campaign, in February 1984 a consortium of Ohio's banks loaned his campaign a total of $2,180,000 and issued letters of credit for an additional $196,565. These loans were secured by (1) a lien on anticipated federal matching funds (2) "comfort letters" from at least 15 Glenn supporters who pledged their "best efforts" to raise money to retire the indebtedness, and (3) a life insurance policy on Senator Glenn.

Senator Glenn's campaign failed to gather anticipated public support and he withdrew from the race in March 1984. Small repayments were made on the loans, but at campaign's end the bank consortium was owed $1,900,000.

The size of the illegal contributions to Glenn, alleged by the government, $1,900,000 dwarfs the charge in this case, $58,000.00, yet the Government does not pursue criminal penalties.

After the 1984 campaign, Senator Gary Hart's campaign remained awash with debt, according to FEC records. As of the third quarter of 1986, Senator Hart's campaign reported a total debt of $2,423,228.32. Beginning December 3, 1985, the Hart campaign informed the FEC that it would initiate a program of requesting its creditors to settle their claims against the campaign for large discounts of the amount owed. To date these "settlements" to creditors have erased $653,062.21 of validly occurring obligations for payment of $167,995.32, for an average settlement rate of 25% of the original amount owed.

To date the FEC has taken no action on these debt settlements by the Hart campaign. There has been no criminal investigation of Senator Hart, his campaign and staff for mail

fraud and wire fraud for these "debt settlements" at 25 cents on the dollar. Yet the government accuses Independent Democrats for LaRouche in this indictment in Counts 117-123 of incurring debt with no intention of paying it back, or only making partial payment on the debt. The same charge apparently could be made against Senator Hart and might find supporters among the creditors who took 25 cents on the dollar in return for their claims.

In 1984 Walter F. Mondale, former Vice-President of the United States, sought election as President of the United States. During Mr. Mondale's campaign, his organization was accused by Senator Hart's campaign of having violated federal laws enforced with criminal penalties by forming "delegate committees" to launder approximately $3.5 million in campaign funds in excess of spending and contribution limits set by federal statute. To comply with the law, these "delegate committees" would have needed to have been independent of and not controlled by the Mondale campaign. Senator Hart's campaign charged that these committees were founded and directed by the Mondale campaign under a scheme created by the General Counsel to the campaign.

After Mr. Mondale lost the election in November 1984, the FEC entered into a "conciliation" of these violations with the Mondale campaign which resulted in the Mondale campaign repaying $350,000 of federal matching funds to the U.S. Treasury. In return there was no civil or criminal investigation of Mr. Mondale, his campaign and associates.

The FEC has spoken on the record to explain the difference between its treatment of candidates Mondale and LaRouche. Judge Gerald L. Goettel, District Judge in the U.S. District Court of the Southern District of New York asked the attorney for the FEC before him in a matter involving LaRouche to explain the difference in treatment. That attorney for the FEC, Richard Bader, Esquire, stated that the distinctions were that the Mondale people requested conciliation, and

The other distinction is the Mondale people of course, were willing to pay $350,000 to the treasurer as liquidation of whatever overpayments there were, and that was deemed an adequate and rather large, in light of our other cases, remedy which would, at the same time, avoid what would have been an extraordinarily large investigation throughout the country, involving hundreds of political commissions, something the commission had to take into consideration, with its meager administrative resources.

It is a ten-million-dollar agency with a very limited number of employees.

It goes without saying that the government has not been similarly constrained in this investigation of LaRouche and associates.

IV. FACTUAL BACKGROUND OF INVESTIGATION/PROSECUTION

According to WBZ-TV's newscast during late October 1984, Mr. Weld empanelled a grand jury to investigate Mr. LaRouche's campaign on very short notice and immediately prior to the election in which Mr. LaRouche was a candidate.

For a period of over 23 months subsequent to the empanelling of the grand jury no indictments were issued, arguing against the need for speedy action which Mr. Weld's actions bespoke. During this 23-month period, Mr. Weld's office engaged in a series of highly irregular activities aimed at the defendants.

In late January 1985 very broad subpoenas were issued to Campaigner, Caucus, NDPC, FEF, IDL and TLC. Agent Egan has

recently testified at the detention hearing for defendants Spannaus, Greenberg and Scialdone that these subpoenas were never properly served pursuant to law.This fact is reflected by the disappearance of the returns of service from court files. Despite lack of service of process, Mr. Weld's office pursued contempt orders against four of the entities Campaigner, Caucus, NDPC and FEF, filing as proof of service for a Show Cause Order an affidavit by Agent Egan allegedly supporting service of process reflecting what a U.S. Marshall in New York said he had done regarding service. Based upon these highly irregular procedures, the government obtained contempt orders which are currently on appeal on petition for certiorari on these issues to the United States Supreme Court.

Immediately subsequent to the October 6, 1986 raid, the Washington Post reported that government sources had informed the newspaper of Mr. Weld's antagonism toward these defendants. These government sources quoted Mr. Weld as having "thrown a hand grenade" into the corridors of the Department of Justice about this case when he arrived on the scene as the new Assistant Attorney General for the Criminal Division of the Department of Justice. The source said, "the feeling was, 'let's hit them;

This source report confirms a report of Mr. Weld's heavy personal involvement in the case received directly from the FBI. An FBI document released pursuant to a Freedom of Information Act request dated January 17, 1986 states, "William F. Weld, U.S. Attorney for the District of Mass., Boston, Mass., is extremely interested in this case....;

Currently the government is seeking to impose $21 million dollars in fines for contempt of court against the four entities mentioned above for failure to produce documents under subpoena, despite the government's stipulation through AUSA John Markham that the entities produced massive quantities of documents purusant to the subpoenas.

Throughout the 2-year course of the grand jury investigation and after indictment continuing in the present time, "sources" in the Department of Justice have consistently leaked information to news reporters in defiance of the rules of this Court. Through those leaks it is possible to to see the government's motive in this case--i.e., the elimination of Lyndon LaRouche from this nation's political scene.

On October 29, 1986 the New York Times reported that sources in the government stated that the government hoped this case would disrupt Mr. LaRouche's activities. This leak accurately and succinctly describes the government's motive in this case, as previously stated by Defendant.

The foregoing are the facts within the possession of the Defendants showing selective and vindictive prosecution. Many of the facts are leaks of information from the government. No doubt there is much more evidence of the motives behind this case in the possession of the government. Only through an evidentiary hearing can the Defendants obtain access to that evidence--the best evidence in these circumstances.

STATEMENT OF DOUGLAS J. BENNET, PRESIDENT, NATIONAL PUBLIC RADIO

Mr. Chairman, National Public Radio, on behalf of its over 330 member stations, appreciates this opportunity to submit testimony in support of maintaining the appropriation

for the postal revenue foregone subsidy at $650 million for FY 1988.

We are proud of the record National Public Radio and its member stations have built over the past 20 years in carrying out the mission of the Public Broadcasting Act to provide quality, alternative radio programming. Over 10 million people now listen to NPR programming per week, a 22% increase over last year. NPR and its member stations provide a combination of distinguished national news and information and programming, including ALL THINGS CONSIDERED, MORNING EDITION, and PERFORMANCE TODAY, as well as local programming aimed at meeting the needs of particular communities.

Building and maintaining the resources to do so, however, is not easy. Each year our stations, organized as non-profit entities, must start over in their fundraising efforts. Federal funds now provide an average of only 15% of station budgets; the rest of station resources come from listeners, local businesses, foundations and educational institutions, and, in some cases, state governments. Survey research shows that, typically, a public radio station listener tunes in for two years before he or she becomes a station supporter.

As the public radio system matures, stations have been increasingly successful in garnering support from listeners for a service they can receive for free. In FY 1985, close to one million subscribers across the country contributed $40.2 million to local public radio stations, up from fewer than 500,000 subscribers contributing $12 million in 1980.

Developing and keeping subscriber support is, in large

part, dependent on reasonable non-profit mail rates. Stations use second class mail to send out their program guides, which are essential to informing listeners about public radio offerings, since virtually no newspaper now carries radio program listings. Stations use third class mail to carry out development efforts, both as a follow-up to on-air fundraising, and, increasingly, as targeted direct mail solicitations to find new members, and to keep old members. In addition, a number of stations use the fourth class library rate to mail copies of program tapes requested by listeners, as well as the free service to send materials for the blind.

As you know, Mr. Chairman, non-profit mail rates increased roughly 40% in 1986. The impact on public radio station budgets has been severe. As Colorado Springs KRCC-FM station manager Mario Valdes puts it, "Our postal budget has shot through the roof."

Earlier this year NPR surveyed its members on their mailing costs and what the recent non-profit postal rate increases have meant for their stations. The results show that the increases resulted in one of two things for most stations: either the increased mailing costs took money away from other budget areas of the station, most significantly, programming; or, the increased costs adversely affected the station's fundraising efforts.

"Simply multiply the (postal) increase times the number of pieces of mail, and deduct it from programming, engineering, development, promotion, administration, production and operations budgets," is how one Ohio station manager described the effect on his station. He summed up the

impact even more succinctly: "Squeeze a balloon on one end and see what happens."

Other stations dealt with the increases by cutting down -- in some cases, cutting in half -- the number of pages in their program guides in order to fit the cost into their budget. Others decreased program guide circulation. Although hesitant to do so, since it runs counter to the public broadcasting mission to bring programming to all citizens, others mentioned the possibility of restricting program guide circulation to their most generous supporters. Other survey respondents noted that their fundraising ratio between dollar spent and dollar raised had narrowed.

Perhaps most disturbing is the fact that increased postal costs have also had an adverse effect on the quality of programming stations are able to offer. Often local news and cultural programming costs are the first to be trimmed, since this is the area over which station managers have the most direct control. This was excatly the trade-off WVPN-FM in Charlestown, West Virginia, reported making as the result of its increased postal costs. WGBH-FM in Boston noted that for fiscal year 1986, increased mailing costs for its program guide alone were $19,000. WGBH recently acquired, for $1,000, a program on the life and work of jazz musician Thelonius Monk to celebrate Black History Month. Nineteen such programs could be acquired and aired with the $19,000 spent on increased program guide mailing costs.

In summary, Mr. Chairman, I would like to say that NPR and its member stations are aware of the tight budget constraints under which the subcommittee is operating. Every

federal program must be carefully scrutinized in the current budget environment. However, I firmly believe that the revenue foregone postal subsidy, which allows non-profit entities in general, and public radio stations in particular, to do effective work in bringing services to their local communities, is a worthwhile federal commitment. I urge the committee to continue support for the subsidy at $650 million for FY 1988.

CONCLUSION OF HEARINGS

Senator MIKULSKI. That concludes the hearings before the Treasury, Postal Service, and General Government Subcommittee on the fiscal year 1988 budget requests. The subcommittee will stand in recess.

[Whereupon, at 12:45 p.m., Friday, April 10, the hearings were concluded, and the subcommittee was recessed, to reconvene at the call of the Chair.]

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